

# **Comprehensive Employee Management System (CEMS)**

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# ADOPTION OF COMPREHENSIVE EMPLOYEE MANAGEMENT SYSTEM

POLICY NUMBER: CEMS-001

## INTRODUCTION:

The City of Winchester, Virginia, Comprehensive Employee Management System set forth herewith supersedes all previous personnel policies and procedures and, having been approved by the City Manager and adopted by the City Council effective July 1, 1979, as revised, serves as the Comprehensive Employee Management System governing all City employees except those specifically exempted.

Constitutional Officers may elect to consent to the application of the CEMS to their respective employees by written agreement executed by the City Manager, and may limit the application of any portions of this policy or exclude their employees altogether in accordance with the terms of such Agreements. Nothing contained in this Policy shall be construed to limit the authority of a Constitutional Officer to manage his or her respective office.

## POLICY:

It shall be the policy of the City of Winchester that:

- employment shall be based on merit and fitness, without regard to race, color, religion, national origin, political affiliation, disability, gender, or age;
- just and equitable incentives and conditions of employment shall be established and maintained;
- City employees shall be paid in relation to the value of the work they perform, and performance shall be a major factor in justifying salary adjustments and increases.

## OBJECTIVE/PROCEDURE:

The specific objectives of the City's Comprehensive Employee Management System shall be:

- To provide uniform standards for a comprehensive employee management system;
- To provide standards of expected behavior and performance;
- To provide a fair and equitable mechanism to resolve employee relations issues;
- To establish and maintain a salary and benefits structure that will attract and retain qualified employees;
- To establish and maintain salary ranges which will assure internal equity of compensation based on the systematic evaluation of each job;
- To maintain the salary structure in a proper relationship with competitive pay practices in the labor market in which the City competes;
- To assure each City employee a performance review at specified intervals;
- To outline safety and health standards, policies, procedures, and expectations;
- To provide effective procedures for salary payments in a uniform manner;
- To furnish City management with a consistent and effective means of recognizing and rewarding improved and outstanding performance.

## LIMITATIONS:

The City's Comprehensive Employee Management System is not intended to set forth or suggest any expressed or implied contractual obligations of the City. The City retains the right to change any of the provisions and policies reflected herein, at any time as circumstances may warrant. The employment of any employee by the City is terminable at any time at the will of the City, and the existence of cause for such termination or any other form of discipline shall be a judgment reserved to the City at its sole discretion.

All references to the male gender (i.e. he, his, him, himself) in the Comprehensive Employee Management System shall be interpreted to include the female gender (i.e. she, her, hers, herself).

## AUTHORITY AND SCOPE:

The City Council and the City Manager are empowered under the Code of Virginia and the City Charter to establish departments, to employ personnel and to set salaries.

The City Manager is the City's Chief Human Resources Officer and is responsible for administering the Comprehensive Employee management System (CEMS). The City Manager may delegate to the Human Resources (HR) Director and to others such of his duties as may be deemed appropriate in connection with the administration of these policies.

The City Manager has the authority to amend CEMS policies. However, certain CEMS and Pay Plan amendments must be approved through Council before they are implemented.

Those amendments that require City Council approval are:

1. CEMS policy changes that involve the amending of any paid leave benefit program.
2. CEMS policy changes that involve supplemental appropriations to implement.
3. Pay Plan changes that involve adding funded full-time positions(s) to the total number of approved positions.
4. Pay Plan changes that involve salary scale changes resulting in supplemental appropriations to implement.

All other CEMS and Pay Plan changes would be at the City Manager and/or Deputy City Manager's approval.

City employees are divided into the classified and the non-classified services.

The non-classified service shall be exempt from most provisions of these regulations except that the general standards of conduct as defined in the Comprehensive Employee Management System shall apply. The non-classified service shall include the following:

- All elected officials and their employees, except the employees of the Commissioner of the Revenue, Sheriff, Treasurer, Commonwealth Attorney, and Clerk of the Court;
- Volunteer personnel and personnel appointed to serve without pay;
- Consultants and counsel rendering professional service;
- Non-classified part-time and seasonal temporary positions;
- Student interns and work-study employees; and
- Such other positions as may be designated by the City Council.

All other employees shall be in the classified service and shall be subject to the provisions of these regulations unless herein otherwise provided.

## TYPES OF EMPLOYMENT

POLICY NUMBER: CEMS-002

### POLICY:

**A. Probationary Employee:** One who has not completed the requisite probation period. This shall be defined as the first nine (9) calendar months of employment for most City employees. Upon a determination by the City Manager that there is a need associated with an employee's training or transition to a new position, the City Manager may upon advance written Notice to the employee prior to their acceptance of a new position, require that the probationary period to also apply to the first nine (9) calendar months upon transition into a new position. The probationary period for uniformed members of the Fire and Rescue Department and employees working as Benefit Programs Workers and Social Workers in the Department of Social Services shall be a maximum of twelve (12) months. The probationary period for Communications Specialists in the Emergency Communications Center will start on the date of hire and conclude nine (9) months after completion of training and certification. The probationary period for sworn members of the Police Department shall begin on the date of hire and conclude a maximum of twelve (12) months from the date they successfully complete the basic training academy.

The probationary period is provided as a means for both the employee and supervisor to determine the employee's suitability for further employment. Either party may terminate employment during or at the conclusion of the probationary period without prejudice.

There is no appeal provided a new employee who is released during the probationary period except where discrimination based on race, color, religion, national origin, political affiliation, gender, age, or disability is claimed.

Probationary employees may take earned leave with pay during the probationary period with prior approval of the Department Head and advice of the Human Resources Director.

**B. Classified Employee:** One who is appointed to an authorized position in the approved Position Classification Plan, and who has completed the required probationary period without further limitation as to length of service other than continuation of position need, funding, satisfactory performance and conduct. Classified employees are full-time and are eligible to receive City benefits.

Full-Time Employee: One who is employed to regularly work 40 hours or more per week.

**C. Non-Classified Part-Time and Seasonal Temporary Employees:** One who is employed without commitment as to tenure. Non-classified part-time and seasonal temporary employees are not eligible to receive benefits. There are two groups in this category, which are as follows:

- Non-Classified Part-Time Employee: An employee may work up to 28 hours per week or 1500 hours per year with no restrictions to tenure.
- Seasonal Temporary Employee: An employee who may work up to 40 hours per week, but with tenure of only up to 6-months.

*Those employees that are currently part-time classified and currently receiving proportional benefits as of the adoption of this revised policy (October 2011), shall be grandfathered.*

# POSITION CLASSIFICATION PLAN

POLICY NUMBER: CEMS-003

## INTRODUCTION:

The Position Classification Plan is the approved system of grouping positions into appropriate classes. Every job is evaluated and classified according to the kind of work and degree of responsibility assigned. Jobs that are sufficiently alike in duties and responsibilities are assigned or allocated to the same class. Each class is evaluated in comparison with other classes and is assigned to a pay grade in the compensation plan.

## POLICY:

### **Maintenance of the Plan:**

Changes to the Position Classification Plan shall be made only with the approval of the City Manager and Council.

The City Manager through the HR Director shall maintain an official copy of the Position Classification Plan. The official copy shall include a schematic list of class titles and class specifications plus all amendments thereto.

Each time a new class is established; a class specification shall be written and incorporated into the existing plan. The class title shall be added to the Schematic List of Classes. Likewise, an abolished class shall be deleted from the Position Classification Plan by removing the class title from the Schematic List of Classes. Reclassification is defined as a reassignment of the appropriate job title and pay range to a position whose current classification does not accurately reflect the actual duties performed. When such position cannot accurately be described or compensated by assignment to an existing class, the City Manager shall establish a new class with appropriate title and salary range. When an employee is reclassified, his salary shall be increased to the minimum of the new pay grade, unless his salary already falls within the new grade. When this occurs, the City Manager may authorize a higher salary as deemed appropriate.

- Department Heads are responsible for bringing to the attention of the HR Director any new position or reclassification request. The request shall include a completed request for classification action form, job description form, and department organizational chart.
- The HR Department shall examine the request and make a recommendation to the City Manager for Council's approval. No person shall be appointed, promoted, demoted, transferred, or paid in any position until the position has first been established.
- Likewise, Department Heads shall report to the HR Director any authorized position within their respective departments which they desire to discontinue. After approval to delete the position, it shall be removed from the list of approved positions.

The class specifications are descriptive and not restrictive. The use of a particular description as to duties, qualifications or other factors shall not be held to exclude others of similar kind or quality. Descriptions are intended to indicate the kinds of positions which shall be allocated to the classes established.

# ESTABLISHMENT OF PAY PLAN

POLICY NUMBER: CEMS-004

## INTRODUCTION:

There is hereby established a formal Pay Plan to be approved by the City Council upon recommendation of the City Manager. The official Pay Plan for the City service shall consist of a schedule showing established annual pay ranges for each pay grade and the title of classes of all positions in each grade in the classified service. The procedure for securing needed amendments to the official salary plan shall involve investigation and recommendation by the City Manager on the appropriate action to be taken by the City Council.

## POLICY:

**Pay Rates:** The rates of pay of City employees shall be in accordance with the scheduled salary ranges as adopted and amended by appropriate action of the City Council. The schedule shall be effective in all cases except as otherwise provided for in this section.

**Annual Review:** The City Manager shall review the Pay Plan at least once per year and submit any recommended changes to City Council. This shall generally be done during the annual budget process.

**General Increase:** General increase is defined as an adjustment of the Pay Plan for all classes of positions simultaneously. Such action may be recommended by the City Manager and must be approved by the City Council.

**Merit Increase:** Merit increase is defined as an increase within the pay range of a class that is awarded to an employee upon the completion of a prescribed period of successful job performance. The amount of merit monies shall be within budgetary amounts approved by City Council. Such increases are awarded on the basis of the degree of satisfactory job performance and may become effective on or after the date of eligibility. A merit increase may be delayed, lowered or denied because of unsatisfactory job performance, disciplinary action, general Pay Plan increase, position adjustment, and/or any type of other raise.

**Cost of Living Increase:** Cost of Living Increase is defined as an increase to employees' base salaries as determined by the City Manager and recommended to City Council for approval. The amount of cost of living increases shall be within budgetary amounts approved by City Council.

Employees in a probationary status and/or employees who have given notice to resign or retire are not eligible for any salary adjustments that are outlined in the CEMS manual.

**Pay Period, Pay Day, and Pay Week:** The regular pay period for general government employees is a fourteen day period commencing on Saturday and ending at the close of the workday on Friday, two weeks later. Pay day is normally every other Friday. Pay week is defined as the week in which pay day occurs.

## Payroll Procedures:

- **Time Sheets:** Department Heads are responsible for the submission of correct information on employees' time sheets. Every effort will be made to have the employee sign the time sheet after its completion. No time sheet shall be processed without Department Head or designee signature. Time sheets shall be submitted to the Finance Department by 12 noon on the Monday of pay week.
- **Mandatory Direct Deposit:** Employees are required to provide to the HR Department account information in order that the pay may be automatically deposited every other Friday.

## EMPLOYMENT ACTIONS

POLICY NUMBER: CEMS-005

### POLICY:

- A. Original Employment:** Original employment is defined as an employee's initial period of continuous employment in a classified position with the City of Winchester. An individual beginning employment with the City for the first time will usually be placed at the minimum of the pay grade established for the class in which employed. Occasionally, however, based on a new employee's prior experience and proficiency in the same or related capacity, placement may be accelerated to a higher level in the assigned grade upon approval of the City Manager within current budget constraints.
- B. Promotion:** Promotion is defined as the advancement to a higher pay grade authorized for an employee in conjunction with increased job duties and responsibilities. When an employee is promoted, his salary shall be increased at least to the minimum for the new class or 5% above present salary, whichever is greater. The City Manager may authorize a higher salary within the pay grade when deemed appropriate. An employee whose promotion is effective on his eligibility date for merit increase may receive a merit increase prior to the promotional increase. In accordance with CEMS-002, the City Manager may require an employee to serve in a probationary status upon transfer to a new position.
- C. Demotion:** Demotion is defined as a reduction in the pay grade of an employee in conjunction with a change in job duties and responsibilities or disciplinary action. When an employee is reduced to a lower pay grade, his salary within the new pay grade shall be approved by the City Manager.
- D. Reinstatement:** Reinstatement is defined as employment following a separation from City employment of less than thirty (30) consecutive calendar days. An individual may return to duty in the same position and class only with the approval of the Department Head and the City Manager. The appropriate pay within the approved grade of the class for all reinstated employees shall be approved by the City Manager.
- All time earned previous to reinstatement shall be counted towards the probationary period, accruals, etc. However, actual time missed prior to reinstatement shall be discounted from such accruals.
- E. Re-employment:** Re-employment is defined as employment following a separation from City employment of more than thirty (30) consecutive calendar days. A returning employee will usually be placed at the minimum of the position's approved pay grade. Occasionally, however, based on the returning employee's prior proficiency and experience in same or related capacity, acceleration above the minimum of the assigned grade may be made upon recommendation by the Department Head and approval of the City Manager. All time earned in previous employment shall not be counted towards leave or other longevity based employment conditions or benefits.
- F. Transfer:** Transfer is defined as the movement from one position to another in the same pay grade.
- G. Modified Work Assignment:** The City will attempt to make available to an employee who has a non-contagious condition an offer to perform work in a modified or light duty assignment where there is a legitimate business necessity and where the attending physician has given written authorization to perform the essential functions of the work assignment. The employee will be paid at an hourly rate classified for the light duty work. Any modified duty work assignments must be on the recommendation of the Department Head to the HR Director with final approval by the City Manager.
- H. Resignation:** Resignation is defined as a voluntary separation from employment through prior notification to the employing authority initiated by the employee.



All classified employees desiring to resign their employment with the City shall submit written notification of such intent to their employing authority. This notification shall include the reason for resignation and the actual date the resignation is to become effective, and shall be signed by the employee. A copy of the notification shall be forwarded to the City Manager or Human Resources Department.

In order to leave in good standing, employees are required to give at least fourteen (14) calendar days' notice prior to the effective date of resignation, except where specific circumstances prohibit such advance notification. Uniformed members of the Fire and Rescue Department, sworn law enforcement officers, including Deputy Sheriffs, and Department Heads are expected to provide thirty (30) calendar days' notice. The HR Director will conduct exit interviews with classified employees leaving City service as far as practical. Information received during an exit interview will not be made a part of the employee's personnel file.

- I. Discharge:** Discharge is defined as an involuntary separation from employment initiated by the employing authority as a result of an employee's unsatisfactory work performance or misconduct.
- J. Reduction in the Work Force (Layoffs):** From time to time various factors such as adverse economic conditions, City or department reorganization, lack of sufficient work, abolishment of positions, and other related incidents may result in the necessity to reduce the work force of the City. The City Manager has the right and obligation to manage the work force to the best interest of the City and may require implementation of this reduction in work force procedure. Unless specific instructions are received from the City Manager, the following will serve as the general procedure for a reduction in work force for positions funded in part or in total by the City.
- In that the City has provided procedures for the removal of employees for unsatisfactory performance and for disciplinary reasons, it will be assumed that all employees, unless otherwise noted, are serving in a satisfactory manner. Therefore, in order to provide for a uniform, fair, equitable, and effective base for the determination of layoffs, the length of continuous City service will provide the basis for determining the order of layoff. Extraordinary circumstances may cause other considerations to be the basis for determining order of layoff when approved by the City Manager.
  - In the event of reduction in the work force, it will be managed on an individual department basis. The Department Head, subject to approval by the City Manager or his designee, will have the responsibility for the identification of organizational sections, job classifications, positions, and individuals affected. Additionally, the HR Director in consultation with the Department Head will determine the order for layoff by classification. Once that order has been determined, if there is more than one person in this classification, the employee with the least amount of continuous City employment will be the first to be laid off.
  - In all cases where a reduction in the work force necessitates the actual removal of personnel, upon identifying classification(s) to be affected the following order of priority will be strictly adhered to within the specified classification unless a written exception is granted by the City Manager:
    - non-classified employees
    - probationary employees
    - classified part-time employees
    - classified full-time employees
  - Insofar as practical, all employees to be laid off will be provided with a minimum of two weeks written notice.
  - Affected employees will be given in any reinstatement or reemployment should a vacancy of the same classification within the same department in which they left occur. If more than one employee in one of the four priority categories listed above has been laid off in a department, the employee with the longest continuous City service will have priority in reinstatement or reemployment, unless the City Manager otherwise directs.
- K. Retirement:** Retirement is defined as voluntary separation from employment with service options provided under the Virginia Retirement System (VRS). Employees retiring from the City with full service benefits under VRS are eligible to remain on the City's healthcare insurance plan with premiums paid for



by the City until the employee becomes Medicare eligible. The retiree must have a minimum of twenty (20) years' service with the City.

Employees hired on or after July 1, 2017, are not eligible to receive the retiree healthcare allowance described in this section. Nothing in this section shall be construed to limit access to the City's healthcare plan for all City retirees as required under 15.2-1517 of the Code of Virginia or other controlling legal authority.

- L. Career Development Program:** The purpose of the Career Development Program is to provide employees an opportunity for advancement in a career path. The City is committed to a policy that increases the prestige and performance level of employees who continue professional development efforts throughout their careers.

The Department Head may submit to the HR Director and City Manager a career development proposal indicating the positions included in the program, the criteria for movement to each position and the administrative procedures for the program. The HR Director and City Manager shall review the program for conformity and consistency with overall career development objectives, and recommend such plans meeting these objectives to Council for approval.

Advancement under an approved career development program shall be accompanied by an increase of 5% to the existing base salary or increase to the minimum of the new pay grade, whichever is greater.

Administrative changes to an approved career development program shall be submitted by the Department Head to the HR Director for recommendations and approval by the City Manager.

The following programs and positions are hereby authorized:

**Fire and Rescue:**

- Firefighter I
- Firefighter II
- Master Technician
- Firefighter/Intermediate
- Firefighter/Paramedic

**Juvenile Detention Center:**

- Detention Specialist I
- Detention Specialist II
- Senior Detention Specialist

**Police:**

- Police Officer I
- Police Officer II
- Police Officer III
- Police Officer IV
- Police Corporal

- Communications Specialist I
- Communications Specialist II
- Communications Specialist III

**Sheriff:**

- Deputy Sheriff I
- Deputy Sheriff II
- Deputy Sheriff III
- Master Deputy Sheriff

**Social Services:**

- Benefit Programs Worker I
- Benefit Programs Worker II
- Benefit Programs Worker III
- Benefit Programs Worker IV

- Family Services Specialist I
- Family Services Specialist II
- Family Services Specialist III
- Family Services Specialist IV

**Public Services:**

- Water/Wastewater Treatment Plant Operator Trainee
- Water/Wastewater Treatment Plant Operator I
- Water/Wastewater Treatment Plant Operator II
- Water/Wastewater Treatment Plant Operator III

*Employees with Commonwealth of Virginia Water or Wastewater Operators Class I or II license shall receive a 5% increase to their existing base salary only.*

- Utility Service Mechanic I
- Utility Service Mechanic II
- Utility Service Mechanic III

- Plant Mechanic I
- Plant Mechanic II
- Plant Mechanic III

**Legal:**

- Legal Secretary
- Paralegal
- Senior Paralegal/Office Administrator

**Clerical:**

- Clerk and/or Receptionist
- Office Associate
- Office Assistant
- Administrative Assistant I
- Administrative Assistant II/Office Supervisor
- Executive Administrative Assistant

**Information Technology:**

- Help Desk Support Tech I
- Help Desk Support Tech II
- Help Desk Support Tech III

**Transit/Garage:**

- Bus Driver I
- Bus Driver II
- Lead Bus Driver
- Automotive Technician/State Inspector
- Automotive Mechanic I
- Automotive Mechanic II
- Automotive Mechanic III

**Public Services:**

- Public Services Inspector I
- Public Services Inspector II
- Public Services Inspector III

**Development Services:**

- Combination Building Inspector I
- Combination Building Inspector II
- Combination Building Inspector III
- Combination Building Inspector IV
- Combination Building Inspector V

**Public Services:**

- Apprentice
- Electrician I
- Electrician II
- Electrician III

**Financial:**

- Account Clerk I
- Account Clerk II
- Account Clerk III
- Senior Account Clerk or Deputy Treasurer/COR
- Accounting Analyst
- Accountant and/or Chief Deputy Treasurer/COR

**Maintenance:**

- Custodian
- Laborer I
- Laborer II
- Maintenance Technician I
- Maintenance Technician II
- Maintenance Technician III
- Sanitation Worker I
- Sanitation Worker II
- Crew Leader

**Public Services:**

- Engineer I
- Engineer II
- Engineer III

**Development Services:**

- Property Maintenance Inspector I
- Property Maintenance Inspector II
- Property Maintenance Inspector III
- Property Maintenance Inspector IV

**Development Services:**

- Planner I
- Planner II
- Senior Planner

# OVERTIME PAY AND COMPENSATORY TIME

POLICY NUMBER: CEMS-006

## PURPOSE:

To establish a policy for compensating employees, including employees of Constitutional Officers subject to the City's personnel policies for overtime hours worked. This regulation is intended to comply with all requirements of the Fair Labor Standards Act (FLSA) and other applicable law. Further, it is the policy of the City that any overtime work necessary to the continued effective operation of the City shall be managed in the most efficient and economical manner possible.

## POLICY:

**A. Authorization for Overtime:** Overtime work shall be authorized only to cover emergencies, necessary seasonal activity, weather conditions, and unusual working requirements, and may be authorized only by Department Heads prior to such work being performed. It is the responsibility of each Department Head to determine that overtime pay is administered in the best interest of the City and to assure adequate funds are available for the payment of overtime. In addition, it is equally important for the Department Head to control unauthorized overtime. Unauthorized work shall be counted as hours worked if the employer should have stopped it but did not, or if he knows or has reason to know of its practice. No employee shall start work before the appointed time, work through lunch or work past the appointed time without prior authorization from their Department Head. Nothing herein shall be construed to preclude disciplinary action for an employee's refusal after proper notice to cease and desist the performance of unauthorized work.

**B. Categories of Jobs:** Under the Fair Labor Standards Act, there are two basic categories of jobs:

- Exempt (E) - those employees not covered by the Act;
- Non-exempt (N) - those employees covered by the Act.

The exempt category consists of three subordinate categories which are applicable to the City's classified service:

- Executive;
- Administrative;
- Professional.

FLSA requirements apply to positions and employees' qualifications - not to classes. The City's class descriptions serve as a general guide in determining whether individual positions are exempt or non-exempt from the provisions of the FLSA. All City classes will be identified as exempt (E) or non-exempt (N), and this designation shall be placed in the City's Schematic List of Classes.

## C. Definitions:

- Fire protection employee: An employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who – (1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by the City, and (2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk;
- Law enforcement employee: An employee (1) who is a Police Officer, Sheriff's deputy or other uniformed or plain-clothed member of a body of officers and subordinates who are empowered by State statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes; (2) who

has the power to arrest; (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a court of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics; or (4) is a Corrections Officer who has the responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions;

- Work Periods for Calculations of Overtime: Overtime is defined as hours worked by a non-exempt employee (excluding employees in law enforcement and fire protection as otherwise defined herein) in excess of 40 hours during a seven (7) consecutive day work period. Overtime for non-exempt law enforcement personnel shall be hours of work in excess of 80 hours during a 14 consecutive day work period. Overtime for non-exempt fire protection personnel shall be hours of work in excess of 144 hours during a 21 consecutive day work period.

**D. Eligibility for Overtime Pay and Compensatory Time:** Department Heads on advice of the HR Director shall establish a department overtime pay and compensatory time policy in accordance with these provisions and determine eligibility giving consideration to budgetary restrictions. Departmental policies shall be submitted to the City Manager for approval. No deviations from established policy may be made except through written request to and approval by the City Manager.

Employees identified as NON-EXEMPT from the provisions of the FLSA shall receive payment at time and one-half the employees regular rate of pay for all hours worked in excess of the limit established for the work period in the section below titled, "Establishment of the Work Period." THE CITY MAY ELECT TO GRANT COMPENSATORY TIME IN LIEU OF PAYMENT TO THE EMPLOYEE AT THE RATE OF TIME AND ONE-HALF FOR EACH HOUR OF OVERTIME WORKED. Payment at the final salary rate shall be made to NON-EXEMPT employees on separation who have accrued compensatory time.

Employees who have accrued compensatory time shall be permitted to use such time within a reasonable period after making a request if the use of the compensatory time does not unduly disrupt the operations of the City. Time frames for use of compensatory time and maximum accrual amounts (compensatory time banks) shall be determined by the Department Head provided the employee does not accrue in excess of 40 hours. Accrued compensatory time shall be used before paid time off or annual leave.

Department Heads are not eligible for overtime pay or compensatory time.

No payment shall be made to EXEMPT employees for compensatory time.

**E. Establishment of the Work Period**

- Non-Exempt Employees (excluding Law Enforcement Officers and Fire Protection Employees): The work period for purposes of overtime eligibility and compliance with the Fair Labor Standards Act shall be seven (7) consecutive days commencing with 00:01 a.m. Saturday through midnight Friday. This seven-day work period will correspond to the reporting period on the employee's time and attendance sheets. Overtime pay or compensatory time for non-exempt employees must be given for all hours in excess of 40 hours in a seven-day work period. However, Department Heads are required, to the extent possible, to reduce or eliminate overtime hours worked within the work period in which they are earned. Overtime pay must always be calculated on the basis of a seven-day work period, and may never be averaged over a two week pay period;
- Non-Exempt Law Enforcement Employees: In accordance with the overtime exemption provided in Section 7(k) of the Fair Labor Standards Act, 29 C.F.R. §553.230, the work period for non-exempt law enforcement employees for purposes of overtime eligibility shall be fourteen (14) consecutive days commencing with 00:01 a.m. Saturday through midnight Friday two weeks hence. This fourteen-day work period will correspond to the reporting period on the employee's time and attendance record. Overtime pay or compensatory time for non-exempt law enforcement employees must be given for all hours in excess of 80 hours in a fourteen-day work period. However, the Department Head is required,

to the extent possible, to reduce or eliminate overtime hours worked within the work period in which they are earned. Overtime pay must always be calculated on the basis of a fourteen-day work period;

- Non-Exempt Fire Protection Employees: A 21-day standard work period has been established for non-exempt Fire Protection employees. Fire Protection employees receive pay based on 144 compensable hours during a single work period. All hours worked in excess of 144 are reimbursable as overtime. Overtime will be managed in accordance with approved work schedules, which are typically 144 hours during a work period. Variations from established work schedules must be specifically authorized by the Fire Chief.

**F. Overtime Pay Calculation:** It is the policy of the City that compensation for hours worked by non-exempt personnel in excess of the established work period within a single work week/period shall be paid as overtime pay.

- Hours worked in excess of the established work period will be paid at the rate of one and one-half times the annual hourly equivalent of the employee's salary, and will be paid in the first feasible pay period after it is earned;
  - Non-exempt employees, excluding Law Enforcement and Fire Protections employees, will be paid overtime for hours worked in excess of 40 in a 7-day work period;
  - Non-exempt Law Enforcement employees will be paid overtime for all hours worked in excess of 80 in a 14-day work period;
  - Non-exempt Fire Protection employees will be paid overtime for all hours worked in excess of 144 in a 21-day work period;
- When compensatory time is intended as a substitute for overtime pay, it must be given at the same rate at which overtime pay would have been earned as described in this section.

**G. Definition of Hours Worked:** All time during which an employee is required or permitted to be on the employer's premises on duty or at a prescribed workplace, except for meals or other periods when he is free from duty, is considered as hours worked. Payment for annual leave, holidays, and compensatory time shall also be counted as hours worked for the purposes of calculating overtime.

Payments made for other periods during which no work is performed including sick leave, military leave, civil leave, injury leave, funeral leave and on call/ standby are not included in hours worked for calculating overtime eligibility.

For NON-EXEMPT Fire Protection, and Law Enforcement employees, except Detention Specialist, hours worked is defined to include all hours that an employee works or is in a paid status including but not limited to annual leave, sick leave, holidays and compensatory time.

To assist departments in defining hours worked under the provisions of FLSA, the following definitions apply:

- Meals: A bona fide meal period is a span of at least 30 consecutive minutes (never less) during which an employee is relieved of duty and free to use the time for his own purposes. It is not counted as hours worked or paid time. Any "meal period" of less than 30 consecutive minutes must be paid as hours worked.

It is not necessary that an employee be permitted to leave the premises during the meal period. However, the time will have to be counted as time worked if the employee is required or permitted to perform any duties while eating;

- Training: Time spent attending classes after hours required by the City to maintain the job must be defined as hours worked;
- Travel: Time spent traveling in a capacity which is not considered normal home-to-work travel must be defined as hours worked. Such travel time includes:
  - Traveling to a work site in another city for a special one-day assignment;
  - Travel which is part of the principal activity of an employee's job during the workday. For example: travel between job sites;

- Travel which requires the employee to be away from home overnight. When away from the home communities, hours worked are calculated by using a comparison to the typical start and finish times of a regular workday.

#### **H. Sleep Time:**

- Duty of less than 24 hours: Under certain conditions an employee is considered to be working even though some of his time is spent in sleeping or in certain other activities. Under such conditions, a non-exempt employee who is required to be on duty for less than 24 hours is working even though the employee is permitted to sleep or engage in other personal activities when not busy. It makes no difference if the employee is furnished facilities for sleeping;
- Duty of 24 hours or more: Where a non-exempt employee is required to be on duty for 24 hours or more, the employer and the employee may agree to exclude bona fide meal periods and a bona fide regularly scheduled sleeping period of not more than 8 hours from hours worked, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. If the sleeping period is of more than eight hours, only eight hours will be excluded from hours worked. Where no expressed or implied agreement to the contrary is present, the eight hours' sleeping time and lunch periods constitute hours worked;
- If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted. For enforcement purposes, the Wage and Hour Division of the Department of Labor has adopted the rule that if the employee cannot get at least five hours' sleep during the scheduled period the entire time is working time.

#### **I. Volunteers:**

- Non-Employee Volunteers: Individuals who volunteer or donate their services, usually on a part-time basis for public service, religious or humanitarian objectives not being performed at the request of or for the benefit of the City are not considered employees of the City during these hours;
- Employee Volunteers: An employee may perform volunteer services for the City as long as the services are not the same type of services as the person is employed to perform. If, while off-duty, an employee performs the duties of his position, the time he puts in shall be considered "hours worked" for the purposes of calculating overtime pay. An employee who believes he is entitled to overtime pay shall submit a claim to the supervisor within fifteen (15) working days of the event. Nothing herein shall prohibit an employee from serving as a member of a volunteer organization provided this service does not conflict with employment requirements.

#### **J. Recordkeeping Requirements:** Each department must keep attendance records of regular and overtime hours worked and leave usage for all non-exempt employees. Electronic time records provide adequate documentation. The actual hours worked must be recorded in the City's Time Keeping System and submitted to the Finance Department the Monday of pay week. All employee time and attendance records, leave usage reports and payroll records must be kept for three years, and are maintained in the Finance Department.



## ON CALL PAY (STANDBY)

POLICY NUMBER: CEMS-007

### PURPOSE:

On call pay is compensation for non-exempt eligible employees who are designated by the Department Head as "on-call" and required to be available when needed to handle emergency situations occurring outside of standard working hours.

### POLICY:

When conditions warrant, the Department Head will schedule sufficient manpower to work outside of standard working hours.

An employee who is required to remain on the City's premises or so close thereto that he cannot use the time effectively for his own purposes is working. An employee who is not required to remain on the City's premises but is required to leave word at his home or with officials where he may be reached is "on call".

A non-exempt employee who is designated as "on-call" and who is off City premises and is not working shall receive \$28.00 per day during weeknights, \$42.00 per day on weekends, and \$50.00 dollars per day on holidays. This compensation shall be in addition to the 2 hour minimum that an employee receives when called in to work and time spent beyond the 2 hour minimum.

When an employee is called back to work after hours, he will receive credit for the actual time worked or two hours' time, whichever is greater. When activated, the employee is entitled to compensation for all time necessary to respond, including time spent on the telephone and travel time. Hours worked on call back count as hours worked for calculating overtime eligibility.

If an employee is on call and is not available or cannot be reached within a reasonable period as pre-determined by the Department Head, he will not be entitled to on call pay and may be subject to the City's Disciplinary Policy.

## PAY FOR SERVING IN ACTING CAPACITY

POLICY NUMBER: CEMS-008

### POLICY:

Whenever a classified employee is required to work in the capacity of a higher-level supervisory position, such employee may be paid additionally for assuming the higher-level duties. Such assumption of duties must be approved by the Department Head. The amount of remuneration shall be determined by the City Manager, giving consideration to budgetary restrictions. Requests for "acting pay" shall be made in writing to the City Manager who shall provide the review and necessary processing, if appropriate.

## EQUAL OPPORTUNITY EMPLOYER

POLICY NUMBER: CEMS-009

### POLICY:

It is the policy of the City to obtain the best-qualified applicants available for each vacancy as it occurs, without regard to race, color, religion, national origin, political affiliation, disability, gender, age, or other non-merit, non-job-related factors. The City's Affirmative Action Plan, adopted by the City Council on November 10, 1981 is made part of the Comprehensive Employee Management System as set forth below:

**Affirmative Action Policy:** The City of Winchester is an Equal Opportunity Employer. It is committed to the maintenance and promotion of the policy of non-discrimination by incorporating sound merit principles in all aspects of personnel management affecting its employees and applicants. Personnel management within the City shall be implemented free from such prohibited personnel practices as discrimination, religious and sexual harassment, or any other conduct inconsistent with sound merit principles. It shall provide equal employment opportunity to all employees in the competitive service of the City and all applicants for such service on the basis of fitness and job-related qualifications without regard to race, color, religion, national origin, political affiliation, disability, gender or age (except where such constitute a bona fide occupational qualification). The City will take affirmative action to make widely known that equal employment opportunities are available on the basis of merit and to actively encourage all persons to seek employment and to strive for advancement on this basis.

The adoption of this policy by the City Council is a reaffirmation of adherence to and promotion of the policy of non-discrimination/harassment. The guidelines and objectives are designed to assist the City and its employees to adhere to the policy.

All employees have a responsibility to address discriminatory and/or harassing behavior observed on the job directly with the offending employee. Should the behavior continue, employees are not only encouraged to report discrimination or harassment, they are legally obligated to do so. Any person employed by the City of Winchester who fails to comply with this policy is subject to the City disciplinary procedures.

## HIRING AND PROMOTION PRACTICES

POLICY NUMBER: CEMS-010

### PURPOSE:

The HR Department has the primary responsibility for centralized recruitment. All tests and selection devices used in making a selection shall be approved by the HR Department. No person shall be hired or promoted into a position unless the department request is reviewed by the City Manager to determine that this is a needed position that is properly funded and classified.

### POLICY:

**Recruitment:** The HR Department shall conduct internal and external recruitment efforts through the use of vacancy lists and media. Testing for certain classes of positions shall be conducted by the HR Department. Once a sufficient number of applications are received, they shall be screened for minimum qualifications by departmental supervisory personnel and HR Department staff.

**Selection:** Interviews are conducted by HR and Departmental staff. Reference checks shall be conducted by the HR Department on those applicants being seriously considered by the Department Head for the vacant position. The HR Director may authorize the Department Head to conduct additional background investigations, but these results must be submitted to the HR Director for review. The Department Head shall notify the HR Department of the preferred applicant. In all cases, the offer of employment and discussion of beginning salary, benefits, and starting date will be handled by the HR Department once approved by the City Manager. Any exception to this shall be approved in advance by the City Manager.

## EMPLOYMENT OF RELATIVES

POLICY NUMBER: CEMS-011

### POLICY:

It is the policy of the City not to employ a member of the immediate family nor relatives living in the same household in a supervisory or administrative relationship.

## JOB SHARING

POLICY NUMBER: CEMS-012

### POLICY:

There may be instances where a Department Head recognizes the necessity to fill one classified full-time position with more than one part-time employee such that the total hours worked do not exceed the hours authorized for that position, and the total cost for the job sharing does not exceed the total cost for one full-time employee. Where this is allowable, such an arrangement in work schedules must first accomplish the City's needs and not only the employee's desires. Department Heads shall request in writing approval from the City Manager for any job sharing arrangements.



# FLEXIBLE WORKPLACE PROGRAM

POLICY NUMBER: CEMS-013

## PURPOSE:

The Flexible Workplace Program is designed to retain a City employee through allowing him to continue work from a mutually agreeable alternate worksite.

## POLICY:

**Definition:** The Flexible Workplace Program allows employees the flexibility to perform their regular work assignments either at home or at an alternate worksite away from the main office for all or part of the work week.

**Eligibility:** All full time classified employees are eligible to participate in the Flexible Workplace Program. The employee must have satisfactory work performance and Department Head, HR Director, and City Manager approval for participation. In addition, the employee must sign a Flexible Workplace Participation Agreement agreeing to abide by the regulations as set forth in this policy. The agreement will be maintained in the employee's official personnel file.

**Termination/Removal from Program:** Employees may request removal from participation in the Program at any time. The Department Head and City Manager retain the right to remove the employee from the Program if his performance declines, if his participation in the Program fails to benefit organizational needs, if procedures specified in this policy are not followed, or for any other reason deemed to be in the best interest of the City. A complaint regarding removal may not be pursued through the City's grievance procedure as this is a management right.

**Work Assignments and Evaluation:** The employee will meet with his supervisor to receive assignments and to review completed work as necessary. Employees will complete all assigned work according to work procedures mutually agreed upon by the employee and the supervisor. Employees and supervisors will develop performance plans which contain performance standards covering work to be completed at the office as well as at home. Performance evaluations shall be conducted in accordance with established policy.

**Work Schedule and Attendance:** Work schedules will be established by agreement of the employee and the Department Head and approved by the City Manager. All policies regarding time records, leave, and overtime will continue to apply. Supervisor approval must be obtained prior to taking leave in accordance with established policy. Overtime for non-exempt employees must be approved in advance by the employee's supervisor. Failure to obtain proper approval regarding work hours may result in removal from the Program and may also result in disciplinary action.

When the alternative worksite is in the home, supervisors may make periodic inspections of the employee's home worksite during the employee's normal working hours to ensure proper maintenance of City-owned property and worksite conformance with safety standards and other specifications.

**Equipment, Property, and Liability:** The City Manager or his designee shall approve the use of City equipment and/or property by an employee at an alternate worksite subject to availability. The employee assumes full responsibility for reasonable care of any equipment on loan from the City. This equipment will be serviced and maintained by the City. If the employee owns the equipment, he is responsible for servicing and maintaining it.

The City will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using City equipment in the employee's alternate worksite. The City will

not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities) whatsoever, associated with the use of the employee's residence as the alternate worksite.

By participating in this program, the employee does not relinquish any entitlement to reimbursement for authorized expenses incurred while conducting business for the City as provided for by City regulations. The employee is normally covered under Workers' Compensation if injured in the course of performing official duties at the official primary worksite or an alternate worksite in accordance with the Virginia Workers' Compensation Act.

**Security:** Where applicable, the employee will apply approved safeguards to protect City and/or work-related records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the respective federal and state legislation.

## HOURS OF WORK

POLICY NUMBER: CEMS-014

### POLICY:

The City Manager establishes the hours of work. The City of Winchester is open to provide services to the public under the following standard hours of operation:

- Rouss City Hall phones are answered from 8:00 a.m. to 5:00 p.m. on regular workdays.
- The business hours for City offices shall be 8:00 a.m. to 5:00 p.m.
- Most full-time employees shall work a forty (40) hour work week which is usually 8:00 a.m. to 5:00 p.m. with a one (1) hour lunch break. When individual work schedules differ from this, compensation will be made on a proportionate basis.

Where departments' normal services require work schedules other than listed above, work schedules will be established by the Department Head with the approval of the City Manager.

Hours of work, schedules and duty assignments may be altered as conditions warrant under authorization of the City Manager.

# LEAVE

POLICY NUMBER: CEMS-015

## POLICY:

**A. Paid Time Off:** The City of Winchester recognizes that employees have diverse needs requiring time off from work and believes that employees should have opportunities to enjoy time away from work to help balance their lives. The City has established this Paid Time Off policy to meet those needs. Employees shall be accountable and responsible for managing their own paid time off hours to allow for adequate reserves to cover illness, disability, appointments, emergencies, or other needs that require time off from work.

**Eligibility:** Active, regular full-time employees in benefit eligible positions.

Paid time off begins accruing upon hire or transfer into a benefit eligible position.

### Accrual of Paid Time Off:

Length of service determines the rate at which the employee will accrue Paid Time Off and the maximum amounts allowable for accrual. Employee becomes eligible for the new higher accrual rate on the first day of the next pay period in which the employee's anniversary date occurs.

Paid Time Off shall not accrue during unpaid leave of absences that last longer than 15 calendar days.

### Paid Time Off shall accrue as follows:

For employees who are scheduled to work 2,080 hours per year:

Years of Service	Accrual Rate per Month	Maximum Carryover
0-4	16 Hours	200 Hours
5-9	18 Hours	250 Hours
10-19	20 Hours	300 Hours
20+	22 Hours	350 Hours

For employees who are scheduled to work 2,496 hours per year:

Years of Service	Accrual Rate per Month	Maximum Carryover
0-4	19 Hours	240 Hours
5-9	21.5 Hours	300 Hours
10-19	24 Hours	360 Hours
20+	26.5 Hours	420 Hours

The work period of some employees exceeds a standard forty (40) hours per seven (7) day work week. When employees are authorized to work more than 40 hours in a seven day work period, then they may earn leave on a prorated basis. The proration calculation is based on the percentage amount that the scheduled hours are over the standard annual amount of 2,080 hours.

### **Scheduling and Usage of Paid Time Off:**

Whenever possible, Paid Time Off must be scheduled in advance. It is subject to supervisory approval, department staffing needs, and established departmental procedures.

Notwithstanding the accrual basis, employees may only take Paid Time Off hours that have actually been accrued.

Unused Paid Time Off balances shall carry over from year to year until the maximum number of carryover hours is reached.

Once the maximum amount of carryover hours has been reached, Paid Time Off will continue to accrue with the excess hours transferring into the employee's Medical Leave Account. The transfer of the excess hours will occur immediately upon the end of each calendar year.

### **Payment upon Separation of Employment:**

Upon separation of employment, an employee's accrued but unused Paid Time Off shall be paid out at a percentage up to their maximum accrual levels according to their corresponding years of service as follows:

Years of Service	Percent Balanced Paid	Maximum Hours Paid
0-4	50%	200/240 Hours
5-9	70%	250/300 Hours
10-19	85%	300/360 Hours
20+	100%	350/420 Hours

The payout shall be at the employee's rate equivalent to their hourly wage at the time of separation, subject to taxes and any other legally required withholdings.

Employees are not permitted to use Paid Time Off after submitting their notice of separation or to extend their last day of employment except when approved by the City Manager upon recommendation by the Department Director.

**B. Medical Leave:** Medical Leave is leave that an employee can reserve to use for longer term sickness or illness.

**Eligibility:** Active, regular full-time employees in benefit eligible positions.

Eligibility begins upon hire or transfer into a benefit eligible position.

### **Balance for Medical Leave Accounts:**

Balance of hours in the account are based upon hours that automatically transfer from the employee's Paid Time Off when it has accrued over the maximum amount allowed per the Paid Time Off policy.

There is no maximum accrual for Medical Leave. As long as the employee is at their eligible maximum amount allowed for Paid Time Off, the excess hours will automatically transfer into the employee's Medical Leave account.

### **Scheduling and Usage of Medical Leave:**

Whenever possible, Medical Leave must be scheduled in advance. It is subject to supervisory notification and established departmental procedures. An employee may use Medical Leave for a medical situation involving the employee or a family member of the employee, when the situation lasts longer than 7 calendar days. Family Member is defined as an employee's spouse, child, parent, or any person living in the same household as the employee.

Medical Leave can be used after an initial elimination period of seven (7) calendar days. It can begin on the eighth day of the longer term sickness or illness.

Medical Leave shall be used and applied while an employee is out on FMLA leave.

Employees may utilize only the actual number of hours in their Medical Leave account.

The use of Medical Leave must be accompanied with a doctor's note verifying the length of time medically necessary to be absent from work.

### **Payment upon Separation of Employment:**

Employee must have completed 5 years of uninterrupted service to be eligible for 25% of the accumulated balance of hours not to exceed \$5,000.00 for Medical leave payout.

If the employee has completed 20 years of uninterrupted service, then the payout is 25% of the accumulated balance of hours not to exceed \$7,500.00 for Medical Leave.

The payout shall be at the employee's rate equivalent to their hourly wage at the time of separation, subject to taxes and any other legally required withholdings.

Employees are not permitted to use Medical Leave after submitting their notice of separation or to extend their last day of employment except when approved by the City Manager upon recommendation by the Department Director.

**C. Family Medical Leave Act:** The Family and Medical Leave Act (FMLA), of 1993, provides employees with unpaid job protected leave for the birth, adoption or placement of a child for foster care, to care for a spouse, child or parent with a serious health condition or due to the disabling illness of the employee. This policy is intended to supplement but not replace the provisions of the FMLA. Reference should be made to the Act for any requirements or provisions not set out in this section.

#### Eligibility:

To be eligible for FMLA leave, an employee must have been employed by the City for at least twelve (12) months and have provided at least 1,250 hours of service during the twelve (12) months before leave is requested. An eligible employee is entitled to a total of twelve (12) work weeks (480 hours) of FMLA leave during the rolling twelve (12) month period from the date the first FMLA begins for one or more of the following:

- Because of the birth of a child of the employee and in order to care for such child;
- Because of the placement of a child with the employee for adoption or foster care;
- In order to care for the spouse, child or parent of the employee having a serious health condition;



- Because of a serious health condition that makes the employee unable to perform the functions of his position;
- Because of a spouse, son, daughter, or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces. (See Special Rules for Military Members);
- In order to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member. (See Special Rules for Military Members)

FMLA leave may be taken for birth or placement of a child only within twelve (12) months of that birth or placement. FMLA leave may begin before the actual date of birth of a child, if the expectant mother's condition makes her unable to work.

In any case in which the City employs a husband and wife, the aggregate number of work weeks of leave to which both may be entitled shall be limited to twelve (12) work weeks during the above defined twelve (12) month period.

FMLA eligible hours will be determined by the primary work schedule of an employee if he or she is working more than a 40 hour per week schedule.

#### Special Rules for Military Members (USERRA):

The Uniformed Services Employment and Reemployment Rights Act (USERRA) requires that a person reemployed under its provisions be given credit for any months and hours of service he or she would have been employed but for the USERRA-covered service in determining eligibility for Family and Medical Leave Act (FMLA) leave.

Qualifying Exigency Leave -- This provision allows eligible employees of covered employers to take up to 12 weeks of job-protected FMLA-qualifying leave:

- Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

Military Caregiver Leave -An eligible employee is entitled to twenty-six (26) weeks of FMLA leave during a single twelve (12) month period for the following: because of a spouse, son, daughter, parent, or nearest blood relative caring for a recovering injured covered service member.

FMLA defines a covered service member as "a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. Covered veteran means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran."

An eligible employee is the spouse, son, daughter, parent or next of kin. "Next of kin" means the nearest blood relative (other than the covered service member's spouse, parent, son or daughter) in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, Brothers and sisters, Grandparents, Aunts and uncles., and First cousins. If the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA, then that individual is deemed to be the service member's or veteran's only FMLA next of kin. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members will be considered the covered service member's next of kin and may

take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

#### Definitions:

- Child is defined as a biological, adopted or foster child, a step-child, a legal ward, or a child for whom the employee is "in loco parentis", who is under eighteen (18) years of age, or if eighteen (18) years of age or older is incapable of self-care because of mental or physical disability.
- Continuing treatment includes multiple treatments by a health care provider or health care service, as well as single treatments that result in a regimen of continuing treatment under the health care provider's supervision. If an employee is incapacitated for more than three days and has been treated by a doctor, even minor illnesses may be covered under FMLA.
- Parent is defined as the biological parent of an employee, or an individual who stood "in loco parentis" to an employee when the employee was a child. This term does not include parents "in law".
- Spouse is defined as husband or wife. (Same-sex spouses are spouses under federal law if they are spouses under state law, all federal laws and regulations that include spouses include the broader same-sex definition in those states where same-sex marriage is legal.)
- Serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility, or continuing treatment by a health care provider. The definition of "serious injury or illness" for current service members and veterans is distinct from the definition of a "serious health condition".

#### FMLA Leave Usage:

FMLA leave shall be taken as leave without pay. In the event the employee takes FMLA leave pursuant to an event or circumstance described above, the employee must use applicable, accrued paid leave, including compensatory time, medical leave, and/or paid time off, during the 12-week period, which leave shall run concurrently with FMLA until such leave has been exhausted. An employee must provide thirty (30) days advance written notice before the date on which the leave would begin in any case where the necessity for the leave is foreseeable. FMLA coverage shall begin on the first day of the serious health condition.

FMLA leave may be taken intermittently or on a reduced schedule if medically necessary. FMLA leave on an intermittent or reduced schedule may not be taken for the birth, adoption or receipt into foster care of a child. If FMLA leave is taken intermittently, an employee may be required to transfer temporarily to an alternative position, with equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular position.

If FMLA leave is foreseeable based on planned medical treatment, the employee shall make a reasonable effort to schedule treatment so as not to disrupt unduly the operations of the workplace.

#### Recordkeeping Requirements:

Requests for FMLA leave must be submitted to the Department Head in writing. The Department Head will forward the request to the HR Director for review and final approval by the City Manager. Employee will be required to submit the Health Care Provider Certification of a serious health condition to Human Resources within 15 days of the request. Certification is to include the date on which the serious health condition began; the probable duration of the condition; appropriate medical facts regarding the condition; a statement that the employee is needed to care for a spouse, parent or child, and an estimate of the time required, or that the employee is unable to perform the job functions, and in the case of intermittent leave, the dates and duration of treatments to be given.

Once received, a decision of the City will be documented on the Employer Response to Employee Request for FMLA form.

FMLA leave requests shall be for a period of not less than one (1) hour increments, and additional increments shall be in not less than one (1) hour.

An employee may be required to submit to a medical evaluation for a second opinion at the City's expense. In the event of conflicting opinions, the employer may pay for a third and final provider to offer a binding decision. The employee may be required to provide subsequent "recertification" on a reasonable basis as required by the City.

An employee returning to work from FMLA leave due to his own serious health condition is required to present to the Department Head and the Human Resources Department a statement from the attending physician certifying his ability to return to full, unrestricted duty as described in the job description for the position. Employee cannot return to work until granted permission from the Human Resources Department.

#### Status of Benefits:

An employee who completes a period of FMLA leave will be returned to the same or an equivalent position. FMLA leave will not result in the loss of any previously acquired benefits, however, FMLA leave time will not be credited towards any future benefits. As such, benefits based on an accrual basis will not accrue during unpaid leave.

The employee may elect to continue participation in the City's group health benefit program during the employee's FMLA leave status. The employer is responsible for paying the employee's portion of the premium. When an employee returns to work upon completion from leave, the employee will be responsible for reimbursing the City for his/her portion of premiums. This also included contributions due from the employee for Virginia Retirement System and all other voluntary elected benefits. If an employee does not return to work following the expiration of FMLA leave, the City may take action to recover any unpaid employee premiums, as well as contributions due from the employee for Virginia Retirement System and all other voluntary elected benefits.

#### Information

If you believe that you might qualify for FMLA leave, contact the Department Head or the HR Director for FMLA paperwork and more details.

**D. Short Term Disability:** The Short Term Disability benefit offered by the City of Winchester provides some income protection should an employee not be able to work because of a disease, non-work related injury, or pregnancy.

#### **Eligibility:**

Active, regular full-time employees covered under the Virginia Retirement System's Plan 1 and Plan 2.

Active regular full-time employees covered under the Virginia Retirement System's Plan 3 for the first year of employment.

#### **Process:**

Employees who have a disease, non-work related injury, or are pregnant may apply for the Short Term Disability benefit. The application packet can be picked up in the Human Resources Department and will include a medical certification form requiring start and end dates of the disability among other information required. The completed application packet must be submitted to the Human Resources Department for determination of eligibility.

#### **Benefit:**

If approved for the Short-Term Disability benefit, the first seven (7) consecutive calendar days are not eligible for payment. The Short-Term Disability benefit payment begins on the eighth (8) day and is 60% of the employee's weekly wages on average earnings within the previous six (6) months, subject to taxes and legally required withholdings. Approved payments will be made on regularly scheduled payroll dates.

The maximum benefit period for Short Term Disability is 125 workdays. The 125-workday period is based on a Monday through Friday workweek and includes paid holidays. If the employee has a balance of hours in their Medical Leave account, then those hours in their Medical Leave account must be exhausted before the City's Short Term Disability benefit will begin.

#### **Return to Work:**

The employee must return to work as soon as permitted by his or her health care provider. The employee must submit the fitness for duty clearance form to the Human Resources Department before the employee will be eligible to return to work.

- E. Funeral Leave:** Funeral leave is a leave with pay granted to classified employees in the event of the death of an "immediate" family member. "Immediate" family member is defined as: an employee's spouse, parent, spouse's parent, son, daughter, brother, sister, grandparents, grandchild, stepchildren, stepparents, guardian, and any persons residing in the same household as the employee.

Funeral leave shall be granted and approved by the Department Head if requested by the employee for a period not to exceed three (3) consecutive days. This leave shall commence upon notification and approval by the Department Head. In the event of multiple deaths in the employee's immediate family each death shall be treated separately, and the funeral leave shall be granted accordingly.

If more than the allotted number of days leave is required, or if leave is desired for a death other than immediate family, as defined above, other leave available to the employee may be used. Funeral leave is not authorized for non-workdays.

- F. Workers' Compensation Leave:** Leave may be granted to protect an employee when he has sustained an injury arising out of or in the course of the performance of his job. For purposes of this policy, the City will adhere to all applicable laws governed by the Virginia Workers' Compensation Commission and policies set forth by the Virginia Municipal League (VML).

An employee sustaining injury or illness as a result of on-the-job work or activity, which injury or illness is formally compensable under the Worker's Compensation Act, may be granted Workers' Compensation leave. Workers' Compensation leave, as certified by the treating physician chosen from the approved panel of Physicians, is ordinarily approved for length of time necessary to enable the employee to return to work following an on-the-job accident. If an employee does not return to work upon expiration of his approved leave period, the supervisor or Department Head may, after investigating the circumstances and conferring with the HR Director, and upon notification to the employee, charge such absence to annual leave, paid time off or take disciplinary action. The burden of proof shall be upon the employee to establish that additional injury leave is justified.

Employees out of work due to a compensable on-the-job injury or illness will be allowed to use leave without pay, sick, or annual leave or paid time off for the first seven days of lost time (Day 1 through Day 7). With compensable injury or illness that is less than 21 days, administrative leave may be permitted during the first seven days of lost time in situations that have occurred through no fault of the employee. VML begins workers compensation insurance payments to the affected employee on Day 8 of lost time. On Day 22, if the employee remains out of work with a compensable on-the-job injury or illness, VML's check will include monetary reimbursement to the employee for Day 1 through Day 7. The City will not reinstate any leave of absence time without pay for sick, annual leave, paid time off for Days 1 through 7

of lost time.

Employees will keep, sign, and cash all VML workers' compensation checks which are based on 66 2/3% of their average weekly wages. These checks are not subject to taxes and will be approximately equal to an employee's average weekly net pay. These wages will be the only source of income for the employee while engaged in a compensable worker's compensation claim.

If a Worker's Compensation injury or occupational disease qualifies as a serious health condition under FMLA, all absences arising out of that serious health condition will be deemed leave under the FMLA and charged against the employee's 12 weeks of FMLA leave. The employee shall remain in contact with their supervisor regarding their medical condition, anticipated return to work status, and to provide copies of disability slips.

This Policy is not a substitute for the Virginia Workers' Compensation Act as found in title 65.2, in the Code of Virginia. It is also not a substitute for competent legal advice on matters relating to workers' compensation in Virginia. While every effort has been made to present the contents of the Act as accurately as possible, it should be noted that this document includes information, which may be subject to change as a result of future legislative action by the Virginia General Assembly. Case law rulings related to workers' compensation may also impact the contents and interpretation of the information contained in this policy. For a more complete resource on workers' compensation law, the employee is referred to the full text of the Virginia Workers' Compensation Act.

- G. Civil Leave:** An employee's absence from work for jury duty, summons or subpoena to appear as a witness shall be defined as civil leave. Defendants in a criminal case are excluded in accordance to Virginia Code Section 18.2-465.1

Civil leave shall be granted by the City Manager. Before this leave is granted, the employee must submit a copy of the official summons or subpoena to the Department Head or supervisor prior to the beginning date of such service.

An employee having been granted civil leave shall be compensated at the regular rate of pay during court appearances. Any compensation for jury duty may also be retained by the employee.

Employees summoned by a court for the purpose of qualifying for jury duty are entitled to civil leave for the actual period of absence, whether or not they are selected to serve. If the employee's presence is required for less than a full workday, the employee is required to contact his department concerning return to work.

- H. Leave Without Pay:** An employee may be granted for reasonable cause, leave of absence without pay, for a specified period of time, at the discretion of the employee's Department Head and the City Manager. A request for leave of absence without pay and approvals or denials thereto shall be in writing. Approval will be based on the needs of the City at the time of the request. The employee must exhaust accrued annual, paid time off, and compensatory leave before the leave of absence without pay begins.

Vacation and sick leave or Paid time off shall not be earned or credited during such leave of absence without pay; however, prior earned, credited and/or accumulated sick or medical leave shall be reserved for the employee and become effective upon the employee's return to service.

Health and group life insurances may be continued by payment of the premiums by the employee for a limited period of time through their COBRA benefit, but all other benefits shall not accrue during the period of leave without pay but shall be reinstated upon return.

An employee failing to return from leave of absence without pay at the agreed return date, unless extenuating and approved circumstances prevent such return, may be subject to immediate termination.



- I. Unauthorized Absence:** Unauthorized absence shall be defined as an absence from the job during a scheduled work period without approval of the employee's supervisor or Department Head. Also, the failure to report to work at the expiration of an authorized leave shall be considered an unauthorized absence. An unauthorized absence from duty during required hours of attendance shall be treated as an absence without pay. Where there are not adequate reasons for the failure to secure authorization prior to the absence, the employee shall be subject to disciplinary action as may be determined by the Department Head subject to the provisions governing discipline set forth herein. An employee who is absent without authorization for three consecutive working days shall be deemed to have abandoned his position and to have resigned unless he shall, within a period of ten working days next succeeding the three days, prove to the satisfaction of the Department Head such failure was excusable; however, nothing contained in this section shall be construed as preventing the Department Head from recommending to the City Manager suspension or dismissal of an employee because of unauthorized absence.
- J. Military Leave:** Any employee who qualifies under the terms of Section 44-93 of the Code of Virginia (1950), as amended, shall be granted a leave of absence without loss of accumulated leave, seniority, or efficiency rating for federally funded military training duty or when called to duty by the Governor of Virginia as a member of the National Guard or any reserve component of the armed forces. The employee shall be paid during such leaves of absence not to exceed 15 work days in a federal fiscal year (October 1 – September 30). The employee shall present to the Department Head a copy of the orders prior to the effective day of leave. A copy of the orders shall be forwarded to the Human Resources Department for inclusion in the official personnel file.

In accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), the City will allow military leave of absence. The USERRA establishes the cumulative length of time that an employee may be absent from work for military duty and retain reemployment rights to five (5) years, with certain exceptions. The period an employee has to make application for reemployment or report back to work after military service is based on the time spent on military duty.

USERRA provides that returning service-members are to be reemployed in the job that they would have retained had they not been absent for military service, with the same seniority, status, and pay, as well as other rights and benefits afforded, as if no leave was taken, and clearly provides for alternative reemployment positions if the service member cannot qualify for such a position. USERRA also requires that reasonable efforts (such as training or retraining) be made to enable returning service members to refresh or upgrade their skills to help them qualify for reemployment. Under the USERRA, the City will make reasonable efforts to accommodate any disability resulting from military service. Service members convalescing from injuries received during service or training may have up to two (2) years from the date of completion of service to return to their jobs or apply for reemployment.

USERRA requires that service members provide advance written or verbal notice to the City for all military duty, unless giving notice is impossible, unreasonable, or precluded by military necessity. An employee should provide notice as far in advance as possible.

Service members are allowed, but not required, to use accrued vacation or annual leave while performing military duty.

The Employer Support of the Guard and Reserve ("ESGR") informs and educates Service members and civilian employers regarding their rights and responsibilities under USERRA. ESGR does not enforce USERRA, but serves as a free resource for Service members and employers. ESGR's Customer Service Center is available to answer USERRA questions, or to refer cases to a trained Ombudsman for mediation assistance. ESGR Ombudsmen are volunteers located throughout the United States and its territories. They are available to assist members of the Guard and Reserve in resolving disputes with their civilian employers related to their military service through neutral and impartial mediation. To ask a USERRA question or to request referral to an Ombudsman, contact the Customer Service Center Monday through Friday (except Federal Holidays) toll-free at 800-336-4590, Option 1, between 8:00 AM and 6:00 PM (ET); or complete an online form.



The US Department of Labor Veterans' Employment and Training Service (DOL VETS) is the federal agency responsible for administering USERRA, to include the exclusive authority to interpret the provisions of the Act. To file a claim with DOL VETS, please visit their website at: [www.dol.gov](http://www.dol.gov), call: 1-866-487-2365, or download the [VETS Form 1010](#) and follow the instructions on the form.

For more information regarding leave and rights and obligations, or to provide notice, under USERRA, please contact the Department Head or HR Director.

For purposes of this section, a work day is defined as the number of hours of the employee's normal work day, up to 12 hours. Fire and Rescue Department employees working 24-hour shifts shall be entitled to 180 hours, or 7.5 24-hour shifts of compensated Military Leave.

- K. Administrative Leave:** Administrative leave is defined as paid leave that is granted at the discretion of the Department Director with final approval from the City Manager. In all situations, it must be pre-approved by the City Manager before it is used.

## CLOSINGS – EMERGENCY/INCLEMENT WEATHER/OTHER

POLICY NUMBER: CEMS-016

### PURPOSE:

The City Manager or designee will determine when weather conditions or situations justify curtailing or adjusting work schedules. It is the intent of the City to maintain City operations to the extent that prudence and safety will allow. Department Heads will maintain normal work schedules unless authorized to alter such schedules by the City Manager. Employees are expected to make a reasonable effort to conform to established work schedules.

### POLICY:

#### Definitions:

- Essential Personnel - City employees who, except when specifically exempted, shall continue to perform their assigned duties regardless of existing severe inclement weather or emergency conditions;
- Non-Essential Personnel - All City employees not designated as Essential personnel;
- Inclement Weather Conditions - Shall include but not be limited to such natural weather conditions as snow storms, hurricanes, tornados, floods, and/or the imminent reasonable anticipated occurrence of such conditions;
- Emergency Conditions - Shall include but not be limited to such occurrences as explosions, fires, major power failures, major environmental occurrences or conditions of such severity or magnitude that extraordinary governmental action is necessitated in order to avoid immediate and irrevocable harm to the public;
- Other Conditions - Shall include any other situation not listed above where the City Manager authorizes a closing;
- Day of closure includes hours between 12:00 a.m. and 11:59 p.m.
- City Administrative office hours for the purpose of this policy are Monday – Friday 8:00 a.m. to 5:00 p.m.
- Type 1 Closure – Closure of all City Offices due to conditions that affect the entire City;
- Type 2 Closure – Closure of Specific Facilities due to conditions that affect only certain City facilities.

Predesignation of job classifications and incumbents of positions within job classifications as Essential or Non-Essential: Department Directors shall be responsible for predesignation of Essential personnel under their direction. This predesignation shall be included in the employee's job description and shall serve as notification to each Essential employee. Each Essential employee shall sign the job description acknowledging the essential employee designation. Department Directors shall also transmit a list of all Essential positions in their department and the names of incumbents of these positions to the HR Director and Finance Director. The HR Director shall be responsible for maintaining the official list of Essential personnel. Employee positions and names of employees not appearing on such lists are by exception automatically predesignated Non-essential employees. Designations for some employees may be for all circumstances (i.e., police officers may be designated as Essential regardless of emergency or inclement weather conditions) or some employees may be restricted to specific criteria (i.e. a maintenance tech may be designated Essential only when it snows).

Predesignation of personnel as Essential or Non-essential shall not restrict or limit the authority of the City Manager or Department Directors to call upon specific Non-Essential personnel for service during emergency/inclement conditions or to relieve Essential personnel from services as necessary or advisable, in particular instances (i.e., incidents of long duration).

#### Announcements:

When an emergency/inclement weather/other condition closure or adjustment of work schedules is designated: Announcements will be communicated through the City's email system, website, City Facebook Page, and Employee Cancellation Hotline (540-667-1815 ext. 1111), and/or the employees' supervisors. Emergency/inclement weather condition designations are automatically canceled at the end of each day.

The distinction between Essential and Non-essential will generally not be included in announcements since Essential employees are expected to report to duty for the designated emergency/inclement weather/other conditions.

City employees will be responsible for monitoring, City email, the City website and/or the Employee Cancellation Hotline (540-667-1815 ext. 1111) for announcements related to the designation and cancellation of emergency/inclement weather/other conditions. An employee's failure to hear such announcements shall be the responsibility of the employee, and an employee's unexcused late arrival to or absence from scheduled work due to failure to monitor and act upon such announcements may subject the employee to the City's disciplinary policy.

If a closure is designated during work hours essential personnel will remain on duty, or if scheduled for duty will report at their established reporting time. In the event of an official closure of City office non-essential personnel will leave the work site, except such personnel who are subject to a specific call of duty. (A supervisor may request non-essential specific personnel to stay on duty if needed.)

If a closure is designated prior to established work hours essential personnel will report to work at the usual starting time of their work day or as otherwise scheduled by their supervisor. Non-essential personnel would not report to work, except such personnel who are subject to a specific call of duty. (A supervisor may require specific non-essential employees to report for a specific call of duty unlike other non-essential personnel.)

#### **Leaves of absence and overtime compensation during closures:**

If adverse weather conditions cause difficulty in employees getting to or from work and City offices are not officially closed, non-essential employees may use leave to cover their absence should they not report to work or leave work early. Such absence, as in the case for all absences, requires approval of the Department Head or designee.

Employees who had leave approved prior to the designation of a closure and do not work during the closure will remain in the approved leave status and have the leave charged to the originally approved leave category.

#### **Type 1 Closure: Closure of all City Offices**

If the City Manager authorizes the closure of all City Offices because of an emergency, inclement weather or other conditions: Non-essential full-time and part-time employees will not suffer a loss in compensation and will be paid their regularly scheduled hours for that day.

If the City Manager authorizes the delayed opening or early closure of all City Offices because of an emergency, inclement weather or other conditions: Non-essential full-time and part-time employees who have reported to work will not suffer a loss in compensation and will be paid their regularly scheduled hours for that day. Part-time employees who do not report to work will not be paid.

Non-essential full-time employees who do not report to work due to an emergency/inclement weather/other condition and the office is subsequently closed will be charged leave, if available, for the full period of absence. If leave is not available, the day will be charged to leave without pay.

Non-exempt essential personnel required to work during an authorized closure will receive pay at their normal hourly rate for all such hours worked during the closure until total hours exceed the applicable over-time threshold and shall be paid in accordance with the overtime policy.

In addition, non-exempt essential personnel who work on the day of an authorized closure, delayed opening or early closure of all City offices will receive compensatory leave at straight time, on an hour for hour basis, equal to the hours that City Administrative offices are closed, , not to exceed eight (8) hours.

For example, the City Manager authorizes a 2 hour early dismissal of non-essential staff on New Year's Eve, non-exempt essential employees who are required to work on New Year's Eve would receive 2 hours of compensatory leave.

#### Type 2 Closure: Closure of a Specific City Facility

If the City Manager authorizes the delayed opening, early closure or full-day closure of a specific City facility due to an emergency or other situation that only affects that facility: Non-essential full-time and part-time employees who are scheduled to work at the closed facility will not suffer a loss in compensation and will be paid their regularly scheduled hours during the closure.

Non-exempt essential personnel required to work at the closed facility during this type of authorized emergency or other situation closing will receive pay at their normal hourly rate for all such hours worked during the closure until total hours exceed the applicable over-time threshold and shall be paid in accordance with the overtime policy.

In addition, non-exempt essential personnel who may be required to work at the closed facility on the day of an authorized closure, delayed opening or early closure of the specific City facility will receive compensatory leave at straight time, on an hour for hour basis, equal to the hours (8:00 a.m. to 5:00 p.m. standard business hours) that the specific facility is closed for any hours of required work performed during the closure, not to exceed eight (8) hours.

City employees not affected by the Type 2 delayed opening, early closure, or full-day closure shall report as scheduled and will receive pay at their normal hourly rate for any hours worked and are not eligible for any compensatory time.

# HOLIDAYS

POLICY NUMBER: CEMS-017

## POLICY:

The City shall observe the following 13 holidays and other such holidays that may be approved by City Council:

- New Year's Day
- Dr. Martin Luther King's Birthday
- President's Day
- Apple Blossom Friday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- The Day after Thanksgiving
- Christmas Eve
- Christmas Day

All full-time exempt and non-exempt classified employees shall receive their normal pay for regularly scheduled hours on the prescribed holiday closures.

Full-time classified non-exempt employees who work on an authorized holiday shall be paid for their regularly scheduled hours plus holiday pay equal to hours worked up to eight (8) hours at their normal rate of pay for each authorized holiday. Additionally, these holiday hours shall be counted as hours worked.

Full-time classified non-exempt employees who are not scheduled to work on an authorized holiday shall be granted holiday leave equal to eight (8) hours of straight work time for each authorized holiday. Holiday leave must be used before any other type of paid leave and will not be paid out upon separation of employment. The maximum accumulation of holiday leave is limited to fifty-six (56) hours.

Part-time classified employees shall be entitled to holiday pay only if the holiday is observed on their normally scheduled workday. Holiday pay for classified part-time employees shall be at their normal hourly rate of pay for the regularly scheduled hours up to eight (8) hours;

Full-time classified non-exempt non-essential employees who work a voluntary flex schedule shall adjust their work schedule for the holiday week, so the holiday is one of the employee's scheduled days.

If a holiday falls within an employee's paid time off leave, it will be charged to holiday pay rather than paid time off leave. If an employee is sick on a holiday he is scheduled to work, the day will be charged as paid time off leave rather than holiday pay.

An employee must work or be in a paid leave status the last workday before and the next workday following a holiday to be paid for the holiday.

For full-time classified employees whose regular work schedule is Monday through Friday: When a holiday falls on a Saturday, the preceding Friday shall be observed; when the holiday falls on a Sunday, the following Monday shall be observed.

For full-time classified employees who work in 24 hour/7 days a week department with various shifts, the holiday shall be observed on the actual date of the holiday.

The City Manager may adjust the holiday schedule(s) to accommodate special circumstances.

## TUITION ASSISTANCE

POLICY NUMBER: CEMS-018

### PURPOSE:

The City of Winchester values continued education and considers it a vital part of employee development. Tuition assistance is designed to aid in attracting desirable new employees; to improve the quality of leadership in City operations; and encourage continued training and education for enhanced job performance and potential advancement in the City service. Courses must be directly or reasonably related to the employee's job duties or to a position to which the employee could reasonably aspire to progress.

### POLICY:

- A. **Definition:** Tuition Assistance is a cost-sharing program to aid employees in furthering their training and education.
- B. **Eligibility:** All full time classified employees may apply for tuition assistance. The employee must have satisfactory work performance.  
Assistance is contingent on the availability of funds in the department's budget and the City reserves the right to limit the total career reimbursement for any employee.

An employee may be eligible for or is receiving tuition benefits under the GI Bill, scholarships, veteran's benefits or other forms of tuition assistance. An employee must certify that other educational assistance entitlement has been exhausted.

An employee agrees to repay the tuition assistance received by continuing employment with the City for a minimum period of one year in a consecutive manner per each course completed. If his employment with the City is terminated for any reason before completing this minimum period of service, the employee agrees to repay, on a prorated basis, the dollar amount not repaid by service.

- C. **Benefit:** Eligible expenses include tuition, fees, and books for the coursework requested. All expenses require appropriate documentation. Courses that meet degree requirements rather than being job related shall not be approved. Specific training and workshops related to an employee's position shall be provided through the department's training account rather than the Tuition Assistance program. The employee must receive a grade of "C" (numerical 2.0) or higher in undergraduate courses, a grade of "B" (numerical 3.0) or higher in graduate courses, a grade of "pass" in a pass/fail course, or certificate of course completion.

An employee may enroll in multiple courses per fiscal year. The maximum amount the City will reimburse is related to their years of service with the City. Any cost exceeding the maximum is the employee's responsibility. Tuition reimbursement date indicates fiscal year for which total reimbursement monies will be charged.

Years of Service	High School, Technical School or Undergraduate Courses	Graduate Courses
1 - 5	\$ 800.00 / year	\$1000.00 / year
5 -10	\$1600.00 / year	\$2000.00 / year
10 +	\$3200.00 / year	\$4000.00 / year

If a course is available locally at a lower cost, the City will pay that cost instead of the distance learning rate or the rate of another institution. The employee is required to pay the difference.

Employees with 5 or more years of service are eligible to receive course prepayment. If an employee

receives payment in advance and does not achieve the grade required, drops the course or the course is cancelled, the employee agrees to repay the City in full.

Employees should promptly notify the HR Department in writing if they (1) withdraw from a course (2) change a course (3) expect a final grade to be late. If an employee changes a course, he must reapply for tuition assistance.

- D. Pre-Enrollment Application and Approval:** Normally, an employee must take the course outside of regular working hours; however an employee may attend courses during working hours at the discretion of the City Manager. The City Manager, on advice of the HR Director, will decide if the employee will take straight work time for the time spent in class, use compensatory time, or take the course on his own time.

An employee must file a completed Pre-Enrollment Application for Tuition Assistance including Department Head and Finance Director approval with the HR Department. The application will be forwarded to the City Manager for consideration. The HR Department will notify the employee of his acceptance or denial.

- E. Reimbursement Procedure:** Unless extenuating circumstances exist, only pre-approved tuition assistance will be reimbursed. The employee must, within 30 days of course completion, complete an Application for Tuition Assistance Reimbursement and forward to the HR Department proof of cost of the course, receipt or cancelled check, and evidence of final grade from the educational institution. Approved expenditures will be promptly reimbursed. Tuition reimbursement date indicates fiscal year for which total reimbursement monies will be charged.



# HIPAA PRIVACY POLICY

POLICY NUMBER: CEMS-019

## POLICY:

The City of Winchester, Virginia (the City) sponsors health insurance in the form of a self-insured medical plan with several coverage options, a medical expense flexible spending account under a Section 125 flexible benefit plan, and an employee assistance program (collectively, the Plans). As group health plans maintained by the same plan sponsor, the Plans are part of an organized health care arrangement. This policy therefore generally refers to the Plans by the singular term “the Plan.” Members of City’s workforce may have access to the individually identifiable health information of Plan participants (1) on behalf of the Plan itself, or (2) on behalf of the City, for administrative functions of the Plan.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict the City’s ability to use and disclose protected health information (PHI).

**Protected Health Information:** Protected health information means information that is created or received by the Plans and relates to the past, present, or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected health information includes information of persons living or deceased.

It is the City’s policy to comply fully with HIPAA’s requirements. To that end, all members of the City’s workforce who have access to PHI must comply with this privacy policy. For purposes of this policy and the City’s more detailed Use and Disclosure Procedures, the City’s workforce includes individuals who would be considered part of the workforce under HIPAA such as employees, volunteers, trainees, and other persons whose work performance is under the direct control of the City, whether or not they are paid by the City. The term “employee” includes all of these types of workers.

No third party rights (including, but not limited to rights of Plan participants, beneficiaries, covered dependents, or business associates) are intended to be created by this policy. The City reserves the right to amend or change this policy at any time (and even retroactively) without notice. To the extent this policy establishes requirements and obligations above and beyond those required by HIPAA, the policy shall be aspirational and shall not be binding upon the City. This policy does not address requirements under other federal laws or under state laws.

## Plan’s Responsibilities as Covered Entity

**Privacy Official and Contact Person:** The City’s HR Director will act as Privacy Official for the Plan as an additional responsibility to such employee’s other duties. The Privacy Official will be responsible for the development and implementation of policies and procedures relating to privacy, including but not limited to this privacy policy and the City’s more detailed Use and Disclosure Procedures. The Privacy Official will also serve as the contact person for participants who have questions, concerns, or complaints about the privacy of their PHI.

**Workforce Training:** It is the City’s policy to train all members of its workforce with access to PHI on its privacy policies and procedures. The Privacy Official is charged with developing training schedules and programs so that all workforce members with access to PHI receive the training necessary and appropriate to permit them to carry out their functions within the Plan.

**Technical and Physical Safeguards and Firewall:** The City will establish, on behalf of the Plan, appropriate technical and physical safeguards to prevent PHI from intentionally or unintentionally being used or disclosed

in violation of HIPAA's requirements. Technical safeguards include limiting access to information by creating computer firewalls. Physical safeguards include locking doors or filing cabinets.

Firewalls will ensure that only authorized employees will have access to PHI, that they will have access to only the minimum amount of PHI necessary for plan administrative functions, and that they will not further use or disclose PHI in violation of HIPAA's privacy rules.

**Privacy Notice:** The Privacy Official is responsible for developing and maintaining a notice of the Plan's privacy practices that describes:

- The uses and disclosures of PHI that may be made by the Plan;
- The individual's rights; and
- The Plan's legal duties with respect to the PHI.

The privacy notice will inform participants that the City will have access to PHI in connection with its plan administrative functions. The privacy notice will also provide a description of the City's complaint procedures, the name and telephone number of the contact person for further information, and the date of the notice.

The notice of privacy practices will be individually delivered to all participants:

No later than April 14, 2004;

- On an ongoing basis, at the time of an individual's enrollment in the Plan;
- And within 60 days after a material change to the notice.

The Plan will also provide notice of availability of the privacy notice at least once every three years.

**Complaints:** A participant may lodge a complaint regarding the Plan's policies and procedures by filing a written notice with the Privacy Official describing the nature of the participant's complaint. The Privacy Official will review the complaint and provide the participant with a written response within 30 work days of receiving the participant's written complaint.

Participants will be notified of this procedure in the Plan's privacy notice, additional copies of which shall be provided to any participant upon request.

**Sanctions for Violations of Privacy Policy:** Sanctions for using or disclosing PHI in violation of this HIPAA privacy policy will involve appropriate disciplinary action, up to and including termination.

**Mitigation of Inadvertent Disclosures of Protected Health Information:** The City shall mitigate, to the extent possible, any harmful effects that become known to it of a use or disclosure of an individual's PHI in violation of the policies and procedures set forth in this policy. As a result, if an employee becomes aware of a disclosure of PHI, either by an employee of the Plan or an outside consultant/contractor that is not in compliance with this policy immediately contact the Privacy Official so that the appropriate steps to mitigate the harm to the participant can be taken.

**No Intimidating or Retaliatory Acts; No Waiver of HIPAA Privacy:** No employee may intimidate, threaten, coerce, discriminate against, or take other retaliatory action against individuals for exercising their rights, filing a complaint, participating in an investigation, or opposing any improper practice under HIPAA.

No individual shall be required to waive his or her privacy rights under HIPAA as a condition of treatment, payment, enrollment or eligibility.

**Plan Document:** The Plan document shall include provisions to describe the permitted and required uses and disclosures of PHI by the City for plan administrative purposes. Specifically, the Plan document shall require the City to:

- not use or further disclose PHI other than as permitted by the Plan documents or as required by law;
- ensure that any agents or subcontractors to whom it provides PHI received from the Plan agree to the same restrictions and conditions that apply to the City;

- not use or disclose PHI for employment-related actions or in connection with any other employee benefit plan that is not part of the same organized health care arrangement;
- report to the Privacy Official any use or disclosure of the information that is inconsistent with the permitted uses or disclosures;
- make PHI available to Plan participants, consider their amendments and, upon request, provide them with an accounting of PHI disclosures;
- make the City's internal practices and records relating to the use and disclosure of PHI received from the Plan available to Secretary of Health and Human Services upon request; and
- if feasible, return or destroy all PHI received from the Plan that the City still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

The Plan document must also require the City to (1) certify to the Privacy Official that the Plan documents have been amended to include the above restrictions and that the City agrees to those restrictions; and (2) provide adequate firewalls.

**Documentation:** The Plan's and the City's privacy policies and procedures shall be documented and maintained for at least six years. Policies and procedures must be changed as necessary or appropriate to comply with changes in the law, standards, requirements and implementation specifications (including changes and modifications in regulations). Any changes to policies or procedures must be promptly documented.

If a change in law impacts the privacy notice, the privacy policy must promptly be revised and made available. Such change is effective only with respect to PHI created or received after the effective date of the notice.

The Plan and the City's shall document certain events and actions (including authorizations, requests for information, sanctions for violations, and complaints) relating to an individual's privacy rights.

The documentation of any policies and procedures, actions, activities and designations may be maintained in either written or electronic form. The Plan must maintain such documentation for at least six years.

## **Policies on Use and Disclosure of PHI**

**Use and Disclosure Defined:** The City and the Plan will use and disclose PHI only as permitted under HIPAA. The terms "use" and "disclosure" are defined as follows:

- Use. The sharing, employment, application, utilization, examination, or analysis of individually identifiable health information by any person working for or within the HR Department of the City, or by a Business Associate (defined below) of the Plan.
- Disclosure. For information that is protected health information, any release, transfer, provision of access to, or divulging in any other manner of individually identifiable health information to persons not employed by or working within the HR Department of the City.

**Workforce Must Comply With the City's Policy and Procedures:** All members of the Plan's workforce with access to PHI (described at the beginning of this policy and referred to herein as "employees") must comply with this policy and with the City's more detailed Use and Disclosure Procedures, which are set forth in a separate document.

**Access to PHI Is Limited to Certain Employees:** The following employees ("employees with access") have access to PHI:

- The City's HR Director, Payroll and Benefits Manager, Account Clerk III, HR Department Secretary, Human Resource Manager, Grants Coordinator and Risk Manager, Finance Director, Chief Accountant, and Senior Account Clerk perform functions directly on behalf of the Plan, and
- The City's HR Director, Payroll and Benefits Manager, Account Clerk III, HR Department Administrative Assistant, Human Resource Manager, Grants Coordinator and Risk Manager, Finance Director, Chief

Accountant, and Senior Account Clerk have access to PHI on behalf of the City for its use in plan administrative functions.

The same individuals may be named or described in both of these two categories. These employees with access may use and disclose PHI for plan administrative functions, and they may disclose PHI to other employees with access for plan administrative functions (but the PHI disclosed must be limited to the minimum amount necessary to perform the plan administrative function). Employees with access may not disclose PHI to employees (other than employees with access) unless an authorization is in place or the disclosure otherwise is in compliance with this policy and the more detailed Use and Disclosure Procedures.

### **Permitted Uses and Disclosures: Payment and Health Care**

**Operations:** PHI may be disclosed for the Plan's own payment purposes, and PHI may be disclosed to another covered entity for the payment purposes of that covered entity.

Payment. Payment includes activities undertaken to obtain Plan contributions or to determine or fulfill the Plan's responsibility for provision of benefits under the Plan, or to obtain or provide reimbursement for health care. Payment also includes:

- Eligibility and coverage determinations including coordination of benefits and adjudication or subrogation of health benefit claims;
- Risk adjusting based on enrollee status and demographic characteristics; and
- Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess loss insurance) and related health care data processing.

PHI may be disclosed for purposes of the Plan's own health care operations. PHI may be disclosed to another covered entity for purposes of the other covered entity's quality assessment and improvement, case management, or health care fraud and abuse detection programs, if the other covered entity has (or had) a relationship with the participant and the PHI requested pertains to that relationship.

Health Care Operations. Health care operations means any of the following activities to the extent that they are related to Plan administration:

- Conducting quality assessment and improvement activities;
- Reviewing health plan performance;
- Underwriting and premium rating;
- Conducting or arranging for medical review, legal services and auditing functions;
- Budget planning and development; and
- Budget management and general administrative activities.

**No Disclosure of PHI for Non-Health Plan Purposes:** PHI may not be used or disclosed for the payment or operations of the City's "non-health" benefits (e.g., disability, workers' compensation, life insurance, etc.), unless the participant has provided an authorization for such use or disclosure (as discussed in "Disclosures Pursuant to an Authorization") or such use or disclosure is required by applicable state law and particular requirements under HIPAA are met.

**Mandatory Disclosures of PHI to Individual and Department of Labor:** A participant's PHI must be disclosed as required by HIPAA in two situations listed below.

- The disclosure is to the individual who is the subject of the information; and
- The disclosure is made to the Secretary of Health and Human Services for purposes of enforcement of HIPAA.

**Permissive Disclosures of PHI When Additional Requirements Are Met:** PHI may be disclosed in the following situations without a participant's authorization, when specific requirements are satisfied. The City's more detailed Use and Disclosure Procedures describe specific requirements that must be met before these types of disclosures may be made. The requirements include prior approval of the City's Privacy Official. Permitted are disclosures:

- About victims of abuse, neglect or domestic violence;

- For judicial and administrative proceedings;
- For law enforcement purposes;
- For public health activities;
- For health oversight activities;
- About decedents;
- For cadaveric organ, eye or tissue donation purposes;
- For certain limited research purposes;
- To avert a serious threat to health or safety;
- For specialized government functions; and
- That relate to workers' compensation programs.

**Disclosures of PHI Pursuant to an Authorization:** PHI may be disclosed for any purpose if an authorization that satisfies all of HIPAA's requirements for a valid authorization is provided by the participant. All uses and disclosures made pursuant to a signed authorization must be consistent with the terms and conditions of the authorization.

**Complying With the "Minimum Necessary" Standard:** HIPAA requires that when PHI is used or disclosed, the amount disclosed generally must be limited to the "minimum necessary" to accomplish the purpose of the use or disclosure. The "minimum necessary" standard does not apply to any of the following:

- Uses or disclosures made to the individual;
- Uses or disclosures made pursuant to a valid authorization;
- Disclosures made to the Department of Labor;
- Uses or disclosures required by law;
- Uses or disclosures required to comply with HIPAA.

**Minimum Necessary When Disclosing PHI.** For making routine and recurring disclosures of PHI, the amount disclosed shall be limited to the amount reasonably necessary to achieve the purpose of the disclosure.

All other disclosures must be reviewed on an individual basis with the Privacy Official to ensure that the amount of information disclosed is the minimum necessary to accomplish the purpose of the disclosure.

**Minimum Necessary When Requesting PHI.** For making requests for disclosure of PHI from the Plan for purposes of routine and recurring requests, the amount requested shall be limited to the amount reasonably necessary to accomplish the purpose for which the disclosure is requested.

All other requests must be reviewed on an individual basis with the Privacy Official to ensure that the amount of information requested is the minimum necessary to accomplish the purpose of the disclosure.

**Contracts with Business Associates:** Employees may disclose PHI to the Plan's business associates and allow the Plan's business associates to create or receive PHI on its behalf. However, prior to doing so, the Plan must first obtain assurances from the business associate that it will appropriately safeguard the information. Before sharing PHI with outside consultants or contractors who meet the definition of a "business associate" employees must contact the Privacy Official and verify that a business associate contract is in place.

Business Associate is an entity or person who:

- Performs or assists in performing a Plan function or activity involving the use and disclosure of protected health information (including claims processing or administration; data analysis, underwriting, etc.); or
- Provides legal, accounting, actuarial, consulting, data aggregation, management, accreditation, or financial services, where the performance of such services involves giving the service provider access to protected health information.

**Disclosures of De-Identified Information and Limited Data Sets:** The Plan may freely use and disclose de-identified information. De-identified information is health information that does not identify an individual



and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual. There are two ways a covered entity can determine that information is de-identified: either by professional statistical analysis or by removing 18 specific identifiers.

The Plan may use or disclose a “limited data set” to another entity for purposes of research, public policy, or health care operations if the Plan obtains satisfactory assurance, in the form of a data use agreement, that the limited data set recipient will only use or disclose the protected health information for limited purposes. A limited data set is information with 16 specific identifiers removed.

## **Policies on Individual Rights**

**Access to Protected Health Information and Requests for Amendment:** HIPAA gives participants the right to access and obtain copies of their protected health information that the Plan (or its business associates) maintains in designated record sets. HIPAA also provides that participants may request to have their PHI amended. In accordance with the City’s privacy procedures, the Plan will provide access to PHI and it will consider requests for amendment that are submitted in writing by participants.

Designated Record Set is a group of records maintained by or for the City that includes:

- The enrollment, payment, and claims adjudication record of an individual maintained by or for the Plan; or
- Other protected health information used, in whole or in part, by or for the
- Plan to make coverage decisions about an individual.

**Accounting:** An individual has the right to obtain an accounting of certain disclosures of his or her own PHI. This right to an accounting extends to disclosures made in the last six years, other than disclosures:

- To carry out treatment, payment or health care operations;
- To individuals about their own PHI;
- Incident to an otherwise permitted use or disclosure;
- Pursuant to an authorization;
- For purposes of creation of a facility directory or to persons involved in the patient’s care or other notification purposes;
- As part of a limited data set; or
- For other national security or law enforcement purposes.

The Plan shall respond to an accounting request within 60 days. If the Plan is unable to provide the accounting within 60 days, it may extend the period by 30 days, provided that it gives the participant notice (including the reason for the delay and the date the information will be provided) within the original 60-day period.

The accounting must include the date of the disclosure, the name of the receiving party, a brief description of the information disclosed, and a brief statement of the purpose of the disclosure (or a copy of the written request for disclosure, if any).

The first accounting in any 12 month period shall be provided free of charge. The Privacy Official may impose reasonable production and mailing costs for subsequent accountings.

**Requests for Alternative Communication Means or Locations:** Participants may request to receive communications regarding their PHI by alternative means or at alternative locations. For example, participants may ask to be called only at work rather than at home. Such requests shall be honored in the sole discretion of the City. However, the City shall accommodate such a request if the participant clearly provides information that the disclosure of all or part of that information could endanger the participant. The Privacy Official has responsibility for administering requests for confidential communications.

**Requests for Restrictions on Uses and Disclosures of Protected Health Information:** A participant may request restrictions on the use and disclosure of the participant’s PHI. Such requests shall be honored in the

sole discretion of the City. The City's HR Department is charged with responsibility for administering requests for restrictions.

# PERFORMANCE EVALUATION

POLICY NUMBER: CEMS-020

## POLICY:

**Objective:** The purpose of the employee performance evaluation will be primarily to inform employees about how well they are performing their work and how they can improve their work performance. The performance evaluation may also be used in determining salary increments; as a basis for training, promotion, demotion, transfer or discharge; and for such other purposes as set forth in these regulations.

**Period of Evaluation:** Supervisors have the responsibility of periodically evaluating the performance of each employee and discussing the evaluation with the employee. These evaluations shall be conducted no later than the end of the probationary period for new employees and annually in June for all other classified employees. The evaluation shall be used as a feedback session. When used as a basis for a merit increase, this shall be awarded on the basis of the degree of satisfactory job performance. An employee shall not be eligible for a merit increase until the performance evaluation form has been completely processed. An evaluation shall be done for employees at the maximum of their salary grade even though they may not be eligible for an increase. Evaluations for Department Heads shall be conducted by the City Manager.

**Evaluation and Merit Increase:** Evaluations shall be prepared by the immediate supervisor of each employee and reviewed by the appropriate Department Head. Department Heads may request merit increases within Council guidelines for all eligible employees and submit these to the HR Director. The City Manager with assistance from the HR Director shall determine the percentage of merit increase awarded based on evaluations, Department Head recommendations, and available funding. All employees' salaries shall be set by the City Manager.

**Review with Employee:** Each employee shall have the opportunity to review every evaluation made of him. Upon a review of the evaluation, the employee shall sign the evaluation form to indicate that it has been reviewed.



## DISCIPLINE

POLICY NUMBER: CEMS-021

### PURPOSE:

The purpose of this policy is to provide a guideline to correct an employee's unsatisfactory work performance or misconduct in an effort to promote maximum utilization of employee potential.

### POLICY:

The City of Winchester shall support the practice whereby all, probationary, classified, and non-classified employees shall be disciplined by the same process. The discipline of an employee shall be a progressive process except when an extremely serious policy violation has occurred.

Disciplinary actions of lesser severity than discharge shall be taken in an attempt to correct an employee's unsatisfactory work performance or misconduct before a discharge is initiated. Generally, a discharge may be considered as appropriate only as a last resort or when an extremely serious policy violation has occurred.

**Forms of Disciplinary Action:** An employee suspected of violating policy may be placed on Administrative Leave with pay by the City Manager, pending the outcome of an investigation. This provides the HR Department with the assistance of the Department Head time to investigate the complaint without financially harming the employee. All proposed disciplinary action must be approved by the HR Director and City Attorney. When a complaint is founded, disciplinary action may take any of the following forms and is not necessarily restricted to the order set forth below:

- **Verbal Reprimand** - A verbal reprimand is a discussion between the supervisor and the employee wherein the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct. Department Heads should document all instances of verbal counseling and advise the HR Director of aforementioned counseling. However, this is not placed in the official personnel file.
- **Written Reprimand** - A written reprimand is a written documentation to the employee from the supervisor wherein the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct.
- **Suspension** - A suspension is the temporary removal from duty of an employee for cause. The suspension period shall be without pay.
- **Withholding of Merit Increase** - The withholding of a merit increase is the denial or postponement of any merit increase within the pay range of a class which is normally awarded upon the employee's completion of a prescribed period of successful job performance.
- **Administrative Decrease** - An administrative decrease is a reduction within the pay range of a class as a disciplinary action resulting from unsatisfactory job performance or misconduct. An administrative decrease requires a letter of justification submitted by the respective Department Head to the City Manager.
- **Disciplinary Demotion** - A disciplinary demotion is a reduction in the pay grade of an employee for disciplinary reasons in conjunction with a change in job duties and responsibilities. A disciplinary demotion may result in a transfer.
- **Discharge** - Discharge is the involuntary separation from employment initiated by the City as a result of an employee's unsatisfactory work performance or misconduct.
- **Decision Day** – The City may utilize the option of Decision Day in lieu of disciplinary action. An employee is instructed to take one day off with pay to decide if he wants to continue to work for the City. If the employee decides to resign from the City, he may do so voluntarily by submitting a written resignation. If the employee decides to continue working for the City, he signs an agreement to abide by all the rules and regulations of the employer. He is also advised that should additional misconduct occur or unsatisfactory performance continue, he will be subject to disciplinary action up to and including discharge.

**Administrative Procedure:** A pre-disciplinary hearing shall be conducted with the employee. The purpose of this hearing is to tell the employee of the alleged violations, give him an opportunity to respond and advise him of the possible disciplinary action.

Upon completion of the investigation, the disciplinary action is approved by the City Attorney, HR Director, and City Manager. A written notice including the items listed below shall be delivered to the employee and receipt obtained for disciplinary actions involving a written reprimand, suspension, withholding of merit increase, administrative decrease, demotion, or discharge.

- A statement of the reasons for the disciplinary action;
- Except in cases of discharge, a warning of what further disciplinary action could result if the situation is not corrected;
- A statement of employee's right to appeal in accordance with the City's grievance procedure.

A copy of such written notice shall be forwarded to the HR Department for inclusion in the employee's official personnel file.

# PROFESSIONAL CONDUCT

POLICY NUMBER: CEMS-022

## PURPOSE:

The City of Winchester expects the highest standard of behavior at all times from its employees and for all employees to be aware of how their behavior can affect others. Therefore, employees must conduct themselves at all times as representatives of the City of Winchester. Employees that fail to conduct themselves in an appropriate and professional manner shall be subject to disciplinary procedures.

## POLICY:

**A. Acceptable Behavior:** The manner of conducting yourself in a way that portrays dignity and respect to others, integrity in your actions, and establishing good working and professional relationships. Some examples of acceptable behavior may include, but are not limited to:

- Conducting yourself as a representative of the City at all times, whether on duty or off;
- Being trustworthy and accountable;
- Being honest, open, and transparent;
- Always acting in a manner that is moral and ethical;
- Always acting honorably and with integrity;
- Creating a working environment based on mutual respect;
- Following City policies, City Code, and state and federal laws;
- Adhering to the letter of the City's Code of Ethics and also the intent;
- Doing your best at your job and always striving for excellence;
- Being responsible for your actions;
- Leaving personal problems that could negatively affect the workplace at home;
- Minimizing personal communications;
- Following reporting structure;
- Treating coworkers, supervisors, customers, and citizens with respect at all times, being courteous and respectful;
- Arriving at work on time and ready to perform your job duties;
- Adhering to the Dress Code & Uniform Policy.

**B. Unacceptable Behavior:** Behavior that may involve actions, words, or physical gestures that could reasonably be perceived to be the cause of another person's distress or discomfort. Unacceptable behavior does not necessarily have to be in person, and may take many forms such as written, telephonic, email communications, or social media. Some examples of unacceptable behavior may include, but are not limited to:

- Violations of City and Department policies and procedures;
- Aggressive or abusive behavior by physical means or verbally such as shouting or engaging in personal insults;
- Spreading rumors or gossiping about others;
- Offensive comments or physical gestures;
- Unsatisfactory attendance or excessive tardiness;
- Insubordination;
- Unwillingness to render satisfactory service;
- Failure to report to work without notice to supervisor;
- Failure of supervisor to perform responsibilities of position including reporting incidents of misconduct;
- Willfully giving false statements to officials or the public; falsifying records such as personnel records, time records, or vouchers;
- Negligence with City property or taking or using such property for personal use;

- Conduct of a threatening, harassing, or discriminating nature;
- Sleeping on the job;
- Criminal convictions that prevent an employee from performing job duties;
- Negligence or conduct endangering the safety of self or others;
- Conducting yourself in a manner that casts a negative reflection upon the City or the employee as a representative of the City;
- General conduct unbecoming for a City employee.

**C. Behavior Accountability:** Every employee is responsible for their own acceptable behavior on a daily basis. Additionally, every employee is responsible for knowing and adhering to this and all City policies. If an employee has a concern or question, then they are also responsible for bringing it to their supervisor's attention. Employees suspected of violating this policy may be subject to the City's Discipline policy.

# SEXUAL HARASSMENT

POLICY NUMBER: CEMS-023

## PURPOSE:

The City is committed to the maintenance and promotion of the policy of nondiscrimination and incorporates sound merit principles in all aspects of personnel management affecting its employees and applicants. Personnel management shall be implemented free of discrimination, sexual harassment, and any other conduct inconsistent with sound merit principles as defined in the City's CEMS manual.

The sexual harassment of any employee of the City by any other employee or non-employee is demeaning to both the victim of the harassment and to the City. It can result in high turnover, absenteeism, low morale, and uncomfortable work environment. Some forms of sexual harassment, including certain kinds of unwelcome physical contact, may also be criminal offenses. The City has a zero tolerance policy, will not tolerate the sexual harassment of any of its employees, and will take immediate disciplinary action to stop it when it occurs.

## POLICY:

**Definition:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Physical conduct of a sexual nature shall include, but not be limited to sexually oriented "kidding" or jokes; physical contact such as patting, pinching or purposely rubbing against another person's body.

**Making Sexual Harassment Complaints:** Any employee who feels he is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- The employee's immediate supervisor;
- The employee's Department Head;
- The HR Director;
- The City Manager.

The employee should be prepared to provide the following information:

- Employee's name, department and position title;
- The name of the person or persons committing the sexual harassment;
- The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, discharge, refusal to hire, transfer, etc.) taken against him as a result of the harassment, or any other threats made against him as a result of the harassment;
- Witnesses to the harassment, if any;
- Whether he has previously reported such harassment and, if so, when and to whom.

**Reporting and Investigation of Sexual Harassment Complaints:** The City Manager is the person designated by the City to be the investigator of complaints of sexual harassment. The City Manager may delegate the investigation to another City employee at his discretion.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Based upon the report, the City Manager shall determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the City Manager determines that the complaint of sexual harassment is founded, he shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment.

The disciplinary action shall be consistent with the nature and severity of the offense, whether a supervisory relationship exists, and any other factors the City Manager believes relate to fair and efficient administration of the City, including the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The disciplinary action may include warning, reprimand, demotion, suspension, or discharge. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

**Obligation of Employees:** Employees have a responsibility to address offensive behavior directly with the offending employee. Should the offensive behavior continue, employees are not only encouraged to report instances of sexual harassment; they are obligated to do so. Sexual harassment exposes the City to liability, and a part of each employee's job is to reduce the City's exposure to liability.

Employees are obligated to cooperate in every investigation of sexual harassment, including coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.

Employees are also obligated to refrain from filing bad faith complaints of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

# GRIEVANCE POLICY & PROCEDURE

POLICY NUMBER: CEMS-024

## POLICY:

It is the policy of the City Council to provide fair, equitable, and satisfactory working arrangements for its employees. Every effort will be made to resolve employee grievances informally with the least amount of worry and delay. In some cases, however, it becomes necessary to proceed through a formal appeal and panel review to handle thoroughly a given grievance.

Accordingly, the following procedures and regulations are established. This policy shall apply to all classified personnel, except Department Heads, the City Attorney, and Assistant City Attorneys, unless otherwise required by controlling legal authority. Any complaint by a Department Head should be discussed directly with the City Manager. The City Manager shall make the final determination. Any complaint from an Assistant City Attorney should be discussed directly with the City Attorney who shall make the final determination. Probationary employees are excluded from using this grievance procedure except in matters concerning complaints of discrimination on the basis of race, color, religion, national origin, political affiliation, gender, age or disability. Law enforcement officers may choose alternative policies set forth in Chapter 5 of Section 9.1 of the Code of Virginia.

## DEFINITION:

As defined in Section 15.2-1506-1507 of the Code of Virginia, a grievance shall be "...a complaint or dispute by an employee relating to his employment, including but not necessarily limited to (i) disciplinary actions, including discharges, disciplinary demotions, and suspensions, provided that discharges shall be grievable whenever resulting from formal discipline or unsatisfactory job performance, (ii) the application of personnel policies, procedures, rules and regulations, (iii) acts of retaliation as a result of utilization of the grievance procedure or participation in the grievance of another local government employee, (iv) complaints of discrimination on the basis of race, color, creed, political affiliation, age, disability, national origin or gender; and (v) acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the congress of the United States or the General Assembly."

## PROCEDURE:

An employee wishing to file a grievance shall have the right to follow all the steps of this procedure as listed below with complete freedom from reprisal. This does not, however, confer the right upon anyone to make slanderous or libelous statements. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) business days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the City Manager. Failure of either party without just cause to comply with all substantial procedural requirements at the panel hearing shall result in a decision in favor of the other party.

## **STEP I**

An employee, who has a grievance, as defined herein, shall within twenty (20) business days of the occurrence of the action or event causing the grievance or of the date when the employee could have reasonably been expected to have learned of the act or event, contact his immediate supervisor for a discussion of the grievance. The supervisor shall immediately discuss the grievance with the employee and make a careful



inquiry into the facts and circumstances of the complaint. The supervisor shall give the employee a written reply within ten (10) business days following receipt of the complaint. Business days do not include authorized leave time of the person required to take some action.

## **STEP II**

If the grievance is not resolved as a result of Step I, the employee may within five (5) business days thereafter file on GRIEVANCE FORM, STEP II, a written grievance with his Department Head. The employee must be sure that the written grievance is complete in all details at this stage of the procedure and must state the specific relief he expects to obtain through the use of the grievance procedure. The Department Head shall immediately discuss the grievance with the employee and any appropriate witnesses for each side. Following the meeting, the Department Head shall inform the employee of his decision and the reasons therefore on GRIEVANCE FORM, STEP II, within ten (10) business days following receipt of the written grievance.

## **STEP III**

If the Department Head's response does not resolve the grievance, the employee may within five (5) business days thereafter file with the City Manager on GRIEVANCE FORM, STEP III, a written request for a hearing, containing the employee's explanation of what has occurred. A copy shall also be sent to the employee's Department Head. Upon receipt of the written request for a hearing, and verification that Steps I and II have been exhausted, the City Manager shall within ten (10) business days schedule the hearing requested. The City Manager may request the presence of the Department Head or any other City official and witnesses at the hearing, and the employee may also have a representative and witnesses of his choice present. The City Manager shall give the employee a written reply on GRIEVANCE FORM, STEP III, within ten (10) business days after conclusion of the hearing. A copy of the reply shall be sent to the employee's Department Head.

## **STEP IV**

If the City Manager's reply does not resolve the grievance, the employee may, within ten (10) business days thereafter file with the City Manager on REQUEST FOR PANEL HEARING FORM, a request that his grievance be submitted to a panel hearing, which shall be the final step of the grievance procedure.

In this step, it is not necessary that the employee again provide a written explanation of what has occurred, as this was contained in his written request submitted at Step II and as part of the record will be made available to the grievance panel.

Within ten (10) business days after the date of the written request for a panel hearing, a panel shall be chosen. One member shall be chosen by the grievant, one member shall be chosen by the City Manager, and one member shall be chosen by the first two appointees, who shall serve as Chairman. If no agreement on a third member can be made, the selection shall be made by the Judge of the Circuit Court. To insure an impartial panel, the panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Employees who are in direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member. The Panel shall schedule the date, time and place for the hearing which shall be within ten (10) business days following selection of the panel.

The parties shall not discuss the substance of any grievance or the problem giving rise to the grievance with any panel members prior to the hearing. Any matters requiring the attention of the panel shall be communicated in writing with copies to all parties.

The employee may have present at the hearing a representative or legal counsel at his own expense. Likewise, the City may have present at the hearing a representative or legal counsel. Copies of the written record of the



case from Step II shall be provided the panel members by the City. Documents, exhibits and lists of witnesses shall be exchanged between the parties in advance of the hearing.

The conduct of the hearing shall be as follows:

1. The panel shall limit attendance at the hearing to persons having a direct interest in the case.
2. The panel may, at the beginning of the hearing, ask for statements clarifying the issues involved.
3. The panel has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence. Exhibits, when offered and when so received, shall be marked and made part of the record.
4. The employee and supervisor, or their representative, shall then present their claim and proofs and witnesses who shall submit to questions or other examination. The panel may, at its discretion, vary this procedure, but shall afford full and equal opportunity to all parties and witnesses for presentation of any relevant materials of proof. Witnesses shall normally be present in the panel hearing only while giving their testimony.
5. The parties may offer evidence and shall provide such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
6. All evidence taken by the panel shall be under oath.

The panel has the responsibility to interpret the application of appropriate City policies and procedures in the case. It does not have the prerogative to formulate or to change policies or procedures. The panel shall render its decision within ten (10) business days of the conclusion of the hearing. The majority decision of the panel shall be final and binding and shall be consistent with provisions of law and written policies. The question of whether the relief granted by a panel is consistent with written policy shall be determined by the City Manager unless he has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth Attorney. Either party may petition the Circuit Court for an order requiring implementation of the decision of the panel.

**Decisions Regarding Grievability:** Decisions regarding grievability and access to the procedure shall be made by the City Manager at any time prior to the panel hearing, at the request of the local government or grievant, within ten (10) calendar days of the request. A copy of the ruling shall be sent to the grievant. Decisions of the City Manager may be appealed to the Circuit Court on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the City Manager shall be instituted by the grievant by filing a notice of appeal with the City Manager within ten (10) business days from the date of receipt of the decision and giving a copy thereof to all other parties. Within ten (10) business days thereafter, the City Manager shall transmit to the Clerk of the Circuit Court to which the appeal is taken: a copy of the decision of the City Manager, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the Circuit Court shall also be furnished to the grievant. The failure of the City Manager to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the City Manager to transmit the record on or before a certain date.

Within thirty (30) business days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the City Manager and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the City Manager, or may reverse or modify the decision. The decision of the court shall be rendered no later than fifteen (15) business days from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

**Matters Deemed Not Grievable:** Employees are advised that conditions of employment and law and policy established by the City Council are not grievable. By State law, wages, salaries, and fringe benefits, likewise, are not grievable. In addition, it is to be understood that the establishment of this procedure shall in no way

remove the right of the City to do the following, provided however, that none of these rights may be exercised in an arbitrary or capricious manner:

1. Establishment and revision of wages or salaries, position classification or general benefits;
2. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
3. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
4. Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
5. The methods, means and personnel by which work activities are to be carried on except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, discharge, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition;
6. The hiring, promotion, transfer, assignment and retention of employees within the local government; and
7. The relief of employees from duties of the local government in emergencies.
8. Verbal and written reprimands which do not include performance requirements such as an Employee Improvement Plan, or a reduction in salary, pay grade, pay classification, rank, or a mandatory transfer unless the basis for the reprimand is alleged to be retaliation or discrimination.

In any grievance brought under the exception to number 5. above of this section, the action shall be upheld upon a showing by the local government that there was a valid business reason for the action, and the employee was notified of the reason in writing prior to the effective date of the action.

**Costs and Expenses:** Non-city employees serving as panel members are not compensated or reimbursed for any expenses. City employees who serve as witnesses or panel members during normal working hours are compensated at their regular rate of pay and this compensation is not charged against any leave.

Grievants who are still employed by the City are compensated at their regular rate of pay for the time spent during normal working hours for hearings provided in this procedure. This compensation is not charged against any leave.

Employees who are grieving termination are not compensated except in cases where a panel decision results in reinstatement with back pay.

The grievance procedure is designed for an employee to go through the process without the necessity for representation. While the employee has the freedom to select a representative of his choice if desired, there is no provision for any compensation or expense reimbursement for a representative.

## SOLICITATION

POLICY NUMBER: CEMS-025

### POLICY:

Unauthorized solicitation on City property during working hours is prohibited. Employees should be able to work in an environment that is free from unnecessary annoyances and interference with their work. In order to protect our employees and visitors, solicitation by employees is strictly prohibited whether the employee is being solicited or the employee doing the soliciting.

## CONFLICT OF INTEREST

POLICY NUMBER: CEMS-026

### POLICY:

It is the policy of the City and in accordance with Chapter 31 of Title 2.2 of the Code of Virginia, that no officer or employee shall solicit or accept gifts, favors, or services from persons or firms for services performed within the scope of his official duties or that might reasonably tend to influence him in the discharge of these duties. No employee shall offer or accept any money or other thing of value for or in consideration of obtaining appointment or promotion with any department.

No employee shall use for his own economic benefit or that of another party confidential information which was acquired by reason of his position and which is not available to the public.

## OUTSIDE EMPLOYMENT

POLICY NUMBER: CEMS-027

### POLICY:

No employee shall engage in any other employment, or in any private business, or in the conduct of a profession during the hours he is employed to work for the City; or outside such hours to an extent that is likely to affect his efficiency as an employee of the City, that is likely to violate the City's Code of Ethics, or that is likely to be in violation of the Virginia Conflict of Interests Act. Employees may take occasional part-time jobs elsewhere if in the opinion of the Department Head there is no conflict with working hours or conflict with interests of the City. Prior to an employee accepting outside employment the employee must obtain approval from the City Manager by completing the Outside/Secondary Employment Request Form.

## POLITICAL ACTIVITY

POLICY NUMBER: CEMS-028

### POLICY:

City employees are prohibited from using their positions to influence or interfere with an election or to influence, coerce, or advise anyone to pay, lend, or contribute anything of value to a party, committee, organization, or person for political purposes.

This in no way is intended to prevent an employee from casting his vote, joining a political organization, attending political meetings, or expressing any opinion in private.

City employees are not prohibited from seeking public office, but must notify the City Manager's office prior to filing. For the purpose of this section, the term public office shall mean an elected public office of the City of Winchester and Frederick County, including City Council, the Board of Supervisors, Clerk of Circuit Court, Commissioner of the Revenue, Commonwealth's Attorney, Sheriff or Treasurer.

# OFFICIAL PERSONNEL FILE

POLICY NUMBER: CEMS-029

## PURPOSE:

To establish an official personnel file and to provide a procedure governing the access, dissemination, and purging of information contained within this file.

## POLICY:

The official personnel file shall be defined as the employment file containing personal information relevant to the individual's employment which is maintained by the City Manager or his designee.

The official personnel file shall be the only file which is to be considered official and complete in matters related to wage and salary, employee selection, and employee relations. Information pertaining to any personnel-related aspect of employment (e.g., letters of reprimand, letters of commendation, unemployment compensation requests, etc.) shall be contained within this file.

The access, dissemination, and purging of information contained within the file shall be in accordance with the Privacy Protection Act of 1976 and the Virginia Freedom of Information Act.

The following individuals shall be designated as having regular access to the official personnel files:

- The City Manager, the HR Director, and their immediate staffs;
- Officers of Federal, State or local law enforcement agencies during the investigation of a violation or potential violation of the law.

The following individuals shall be designated as having regular access to a limited number of the official personnel files:

- Individual employees or former employees shall have regular access to their own personnel file after having satisfactorily demonstrated their identity;
- Administrative boards and Department Heads shall have regular access to the official files of employees under their authority only.

All official personnel files shall be reviewed in the presence of a member of the HR Director's staff.

There shall be no dissemination of any personal information contained within the official personnel file to any individual or organization not having regular access unless authorized by law or unless a Voluntary Release of Information Form has been completed both by the employee and the requesting individual agency.



## TRAINING AND TRAVEL

POLICY NUMBER: CEMS-030

### POLICY:

Prior approval by the Department Head and City Manager is required to authorize employees to attend short courses, seminars, college courses, conferences, meetings, etc., coincident with the employee's responsibilities with the City.

Requests for planned travel must be submitted on the Travel Authorization Form.

Only in an emergency situation may an employee receive a cash advance for training and travel. Cash advances are subject to the approval of the City Manager or his designee.

**Registration:** Approved registration and tuition fees for employees shall be paid by the City if department funds are available.

**Transportation:** Travel shall be made in the most economical way possible. City vehicles shall be used for travel when available. Prior authorization by the City Manager or Department Head shall be required for mileage reimbursement of the current IRS mileage reimbursement rate for use of a personal vehicle.

**Lodging:** Reasonable overnight accommodations costs will be paid when necessary, and authorized in advance. The City shall pay the employee's occupancy rate. The employee shall pay additional costs for others.

**Meals:** The per diem rate for meals shall be \$40.00. Where less than a whole day's travel is involved or if a meal is part of an official program, per meal rates shall be \$8.00 for breakfast, \$10.00 for lunch and \$ 22.00 for dinner. Many conferences/seminars include one or more meals as part of the registration fee. These should not be included for reimbursement.

**Miscellaneous Expenses:** Miscellaneous expenses which are made for official business purposes may be reimbursed if approved and receipts are furnished.

The City Manager may waive any or all of these provisions when situational specifics so warrant.

# CITY SUPPLIED CELLULAR PHONE & MONETARY STIPEND POLICY

POLICY NUMBER: CEMS-031

## PURPOSE:

The purpose of this policy is to establish guidelines for the issuance of cellular devices or monetary stipends to employees. It is important that users of City supplied cellular phones understand it is a privilege.

The City of Winchester recognizes that the performance of certain job responsibilities may be enhanced by or may require the use of a cellular (cell) phone or a Smartphone. For those employees that require the usage of cellular devices yet opt to not receive a City-issued device, the City is offering a monetary stipend to account for the employee's ongoing business-related use of a personal cellular device to accomplish the following:

1. Financial savings;
2. Reduced administrative oversight;
3. Decrease in required technological support.

This policy is applicable to all fulltime classified City employees and is intended to provide uniform and consistent standards for the issuance of a cellular device or monetary stipend.

## POLICY:

### **City Issued Cellular Device:**

**Acceptable Cellular Phone Use:** A City issued cellular telephone shall be used for appropriate business purposes when a safe, convenient, and less costly alternative is not available. Only City staff and other authorized persons conducting City business may use City cellular telephones. Use of cellular telephones that hinders productivity, interferes with City use, or is excessive is prohibited.

Personal use of a City cellular telephone is prohibited, except in cases of personal emergency or when extended work hours, unexpected travel, or when unanticipated changes in job-related circumstances require the employee to contact family members, teachers, doctors, daycare centers, or others affected by the change.

An employee is eligible for reimbursement in the event that the employee uses a non-City cellular telephone for City business where no other option was available and the call was urgent and necessary. After approval by the Department Head, reimbursement will be made for applicable air time.

Employees are responsible for taking proper care of City issued cellular telephones and reasonable precautions against damage, loss, or theft. Loss of cellular telephones should be reported to your supervisors. Damage to and/or loss of City issued cellular telephones attributable to negligence, or those occurring on a multiple basis, may result in the loss of use of a City issued cellular telephone, any stipend or reimbursement, and/or disciplinary action.

Employees are prohibited from using cellular telephones while operating a City vehicle, unless the employee is specifically trained and authorized to do so or unless utilizing a hands-free device. Employees are also prohibited from using cellular telephones while operating or on the back of City equipment. Employees are instructed to safely park City vehicles and equipment before operating cellular telephones.

Discussions of confidential information over a cellular telephone should be avoided.

It shall be the responsibility of each department head or his designee on a monthly basis to document any personal calls made by each of his employees on City-issued cellular telephones and to ensure reimbursement is received by the City for any such calls. Each employee will review his own statement and submit a verification form to the department head indicating the amount of personal use and submitting reimbursement, when necessary.

### **Monetary Stipend:**

The City Manager or their designee may authorize the issuance of the stipend.

Employees who hold positions that include the need for a cell phone (see eligibility criteria below) that opt not to use a City-issued cellular device may receive a cell phone stipend to compensate for business-related costs incurred when using their individually owned cell phones. The City will not distribute the aforementioned stipend to employees that are assigned a City-owned cellular device.

### **Eligibility:**

Employees whose job duties include the frequent need for a cell phone may receive extra compensation, in the form of a monthly cell phone stipend, to cover business-related costs. An employee is eligible for a personal phone stipend if at least one of the following criteria is met:

1. The job function of the employee requires considerable time outside of his/her assigned office or work area and it is important to the City that s/he is accessible during those times;
2. The job function of the employee requires him/her to be accessible outside of scheduled or normal working hours where time sensitive decisions/notifications are required;
3. The job function of the employee requires him/her to have wireless data and internet access; and/or
4. An employee who only occasionally is contacted for business purposes is not eligible for a stipend.

### **Stipend Plan:**

If an employee meets the eligibility requirements for a cell phone, as outlined above, a stipend may be requested in writing through their Department Director to the Financial Services Director and Innovation & Information Services Director.

1. Once approved, the stipend amount will be added to the employee's regular pay. In order to meet IRS guidelines, any amount added for cell phone equipment or for cell phone service will be identified as a taxable benefit.
2. The stipend will be paid as a flat rate monthly, based on the selected service and outlined below. The City will pay only the agreed upon amount,
3. The stipend allowance is neither permanent nor guaranteed. The City reserves the right to remove a participant from this plan and/or cancel the stipend for business reasons.
4. The amount of the stipend will be determined based on the type of plan required of the employee's position to perform his or her job responsibilities. A tiered model based on the current market rates includes the following options:
  - Voice only - \$20 per month
  - Voice & Data - \$35 per month

If an employee's job duties do not include the need for a cell phone, the employee is not eligible for a cell phone stipend.

### **Equipment Purchase:**

The City will not pay for the purchase of personal cell phones, activation fees, insurance or any other charges associated with procuring the aforementioned personal device.

### **Oversight, Approval & Funding:**

Individual departments and Department Heads are responsible for identifying employees who hold positions that include the need for a cell phone or issuance of the stipend. Each department is strongly encouraged to review whether a cellular device is necessary, and to select alternative means of communication; e.g., land-lines and mobile radios - when such alternatives would provide adequate and less costly service to the City.

The Department Head is responsible for overseeing employee cell phone needs and assessing each employee's continued need of a cell phone for business purposes. The need for a cell phone stipend should be reviewed annually, to determine if existing cell phone stipends should be continued as-is, changed, or discontinued.

The City Manager will have the final approval authority. Stipends are funded by the department submitting the request. Stipends will be distributed through payroll monthly. This is a taxable fringe benefit and taxes will be withheld from the stipend and it will be reported on the employee's W-2 as wages.

#### Employees Rights & Responsibilities:

1. The employee is responsible for purchasing a cell phone and establishing a service contract with the cell phone service provider of his/her choice (except when using a device/provider that does not require a service contract). The employee is solely responsible for all payments to the service provider;
2. The employee may, at his or her own expense, add extra services or equipment features, as desired. If there are problems with service, the employee is expected to work directly with the carrier for resolution;
3. Support from the City's Innovation & Information Services (I&IS) Department is limited to connecting a personally-owned smartphone to City-provided services; including email, calendar, and contacts;
4. An employee receiving a cell phone stipend must be able to show, if requested by his/her supervisor, a copy of the monthly access plan charges and business related confirming they continue to have a contract for the cell phone;
5. If the employee terminates the wireless contract at any point, s/he must notify his/her supervisor within five (5) business days to terminate the stipend;
6. The City does not accept any liability for claims, charges or disputes between the service provider and the employee. Use of the phone in any manner contrary to local, state, or federal laws will constitute misuse, and will result in immediate termination of the stipend and potential disciplinary action;
7. Any cell phone that has data capabilities must be secured based on current security standards including password protection and encryption. If a cell phone with data capabilities is stolen or missing, it must be reported to the employee's supervisor, the wireless device service provider and I&IS as soon as possible;
8. Employees shall delete all City data from the cell phone when their employment with the City is severed.

#### Cancellation:

Any stipend agreement will be immediately cancelled if:

1. An employee receiving a cell phone stipend ends their employment with the City;
2. The employee changes position within the City which no longer requires the use of a cell phone for business reasons;
3. A decision by management (unrelated to employee misconduct) results in the need to end the program or there is a change in the employee's duties;
4. The employee does not want to retain the current cell phone contract for personal purposes.

## USE OF CITY VEHICLES

POLICY NUMBER: CEMS-032

### POLICY:

City owned vehicles shall be used strictly for City business only. Any personal use of a City owned vehicle shall result in disciplinary action.

An employee may be allowed to drive a City owned vehicle home overnight and week-ends if the employee is in a position which is subject to on-call twenty four (24) hours a day, including week-ends and is, on a regular basis, called back to work. The Department Head shall recommend positions in the department which require taking a City vehicle home overnight and week-ends and submit this list to the City Manager for approval. A Department Head may authorize an employee to take a vehicle home for a specific purpose on a short-term basis. (For example, to attend an out of town conference.)

Any employee operating a City owned vehicle shall be required to:

- Abstain from operating communication devices such as cell phones and radios, unless specifically trained and authorized to do so or utilizing a hands-free device;
- Obey all applicable driving and traffic laws;
- Meet the standard licensing qualifications and notify his immediate supervisor on any change in status;
- Abstain from smoking in the City owned vehicle;
- **Keep** the vehicle reasonably clean;
- Report any accident, damage or repair concern to his immediate supervisor;
- Prohibit use of the vehicle by a family member of other non-authorized individual.

Use of a City owned vehicle for commuting to and from home is taxable to most employees. Qualified tax exemptions include police and fire emergency vehicles and utility service trucks.

# ACCEPTABLE COMPUTER SYSTEM AND NETWORK USE

POLICY NUMBER: CEMS-033

## POLICY:

The City provides employees, elected officials, and other authorized users (users) with access to technology including computer hardware, software and communications links, including internet access, (computer system) for business purposes.

The system shall be used to increase City intercommunication, enhance productivity, and assist City users in upgrading their skills through greater exchange of information with their peers. The system allows any computer user to find information and communicate on a worldwide network of computers. This information resource is available to users to enrich government and enhance the efficiency and effectiveness of service delivery to the public and other departments.

## PURPOSE:

Access to computer systems enables users to gather information relevant to the City's business from a variety of internal and external sources and to provide information to residents, potential residents, businesses, customers and suppliers, as well as business prospects. It is important that users of the City computer system understand that access is a privilege.

## SCOPE:

This policy applies to all City employees, elected officials and other authorized users (users). For the purposes of this policy, "users" mean employees, elected officials and other authorized users such as volunteers.

Users have access to these systems consistent with the requirements of their task, and are encouraged to use the systems. Within and between organizations, E-mail can be an effective tool that helps break down barriers to communication and promotes the free exchange of information and ideas. "Internet" means all activities undertaken through the City's Internet resources including electronic mail and browsing external web sites unless otherwise specified.

## RESPONSIBILITIES:

The Information Technology Director shall serve as the coordinator to oversee the City system and will work with other local, regional, or state organizations as necessary.

Department and Agency Heads or their designee shall ensure users receive proper training in the use of the system and the requirements of this policy and are responsible for interpreting the City Acceptable Use Policy at the Department or Agency level.

All hardware, software, on-line resource, and service purchases must be evaluated and approved beforehand by the Information Technology Director or designee.

### **A. Technical Services:** The following services are provided:

- Enterprise wide business applications to support the governmental functions of Departments and Agencies;
- Access, through direct or internet connection, to external databases for the Commonwealth of Virginia and other local, state, and federal agencies;
- World Wide Web: The Web provides access to a wide range of information in the form of text,

graphics, photographs, video, and sound, from throughout the world. The Web is a valuable research tool for users;

- E-mail: E-mail allows users to communicate with each other and with people throughout the world;
- Content Filtering: The City uses software designed to block access to certain sites and filter content;
- Internal website that provides City related information useful to employees ([www.ci.winchester.va.us/internal](http://www.ci.winchester.va.us/internal))

**B. Access:** Access to the computer system is a privilege. Computer system access is provided to users upon approval by the Department or Agency Head and Information Technology Director. It is the responsibility of the Department Head to assess user needs and make recommendations to the Information Technology Director when granting access and periodically determine whether continued access is necessary. The user's Department Head should submit requests for adding or removing access rights (including employment termination) to the Information Technology Department in a timely manner using the current access request forms.

To promote efficient use and avoid misuse of computer systems, users must complete an Acceptable Use Agreement prior to being granted access. This agreement acknowledges receipt and understanding of this policy and the following Notice to Users that appears on City computers.

#### "NOTICE TO USERS"

"This is a City of Winchester Virginia computer system is the property of the City of Winchester Virginia. It is for authorized use only. Users have no explicit or implicit expectation of privacy. Any and all use of this system may be monitored, recorded, copied, audited, inspected, and disclosed to City of Winchester Information Technology, and law enforcement personnel, as well as authorized officials of other agencies. Unauthorized or improper use may result in administrative action and civil and criminal penalties. By continuing to use this system you consent to these terms and conditions. LOG OFF IMMEDIATELY if you do not agree to the conditions stated in this warning."

**C. Ownership:** City provided computer systems are considered City property and are intended for business use only. Any and all contents on the computer system are subject to review by the City.

**D. Privacy of Communications:** Computer system users have a limited privacy expectation in the contents of their personal files on the City computer system. Technicians and computer system administrators maintain full rights to all storage subsystems and may need to access/modify such storage subsystems as a part of their duties.

Due to the inherent characteristics of internet and E-mail systems, correspondence via Internet or internet E-mail is NOT guaranteed to be private. While this policy document is in part intended to promote secure communications, a user's rights while accessing the Internet by use of City property does not include the right to privacy. The City reserves the express right to monitor, and limit in any way, the activities of the users while accessing the Internet.

**E. Monitoring:** The City has no obligation to monitor or regulate the materials posted or distributed by users, but may have cause to monitor, and limit in any way, user usage to ensure proper working order, appropriate use by users, and the security of the City computer system.

The City has the right to monitor computer system activity as directed by the City Manager through any means it deems necessary.

Routine maintenance and monitoring of the computer system may lead to discovery that the user has or is violating this policy, other City policies, or the law. If there is reasonable suspicion that a user has violated the law or a City policy, an individual search shall be conducted. The nature of the investigation shall be reasonable and in the context of the nature of the alleged violation.



The City shall cooperate fully with local, state, or federal officials in any investigation concerning or relating to any illegal activities conducted through the City computer system.

**F. Acceptable Use:** Users should use the computer system in a responsible and professional manner reflecting the City's commitment to honest, ethical, and non-discriminatory business practice. Users shall use the computer system for City related business and professional or career development activities. Personal use of the system is permissible within reasonable limits as long as it does not interfere with or conflict with business use or interfere with the user's performance of their duties. Users are responsible for exercising good judgment regarding the reasonableness of personal use. Users shall not conduct any type of personal business enterprise whether for profit or non-profit. Users shall not release untrue, distorted, or confidential information regarding City business.

**G. Jeopardizing System Security:** Users are responsible for the use of their individual accounts and should take precautions to prevent others from being able to use their accounts. Under no circumstances should a user provide his/her password to another person or log on to the computer system and allow another user to work under their logon. Users shall not alter system or network settings or change configurations (hardware and software) except under the direct supervision of technology staff.

Users shall immediately notify the Information Technology Director if they identify a possible security problem. Users shall not go looking for security problems, because this may be construed as an illegal attempt to gain access. Users shall avoid the inadvertent spread of computer viruses by following all virus protection procedures if they download software.

Users shall not intentionally interfere with the normal operation of the network, including the propagation of computer viruses and sustained high volume network traffic, which substantially hinders others in their use of the network. Users shall not examine, change, or use another person's files, output, or user name without explicit authorization.

Users shall not connect unauthorized equipment to the network or to a computer connected to the network. Users shall not use the City network to gain unauthorized access to any computer system.

System passwords, including power-on, and/or network login must be provided upon request to technology staff for use in diagnosing and repairing system problems.

**H. Failure to Respect Resource Limits:** Users shall not download large files unless absolutely necessary. If necessary, users shall download the file at a time when the system is not being heavily used and immediately remove the file from the system's server to their personal computer.

Users shall not post chain letters or engage in "spamming." Spamming is sending an annoying or unnecessary message to a large number of people. Users shall subscribe only to discussion groups, chat rooms, or mail lists relevant to their specific job or project or professional/career development.

**I. Internet Safety:** Users shall not visit Internet sites that contain obscene, pornographic, hateful or other objectionable materials; and shall not send or intentionally receive any material that is obscene or defamatory or which is intended to annoy, harass or intimidate another person. Because the Internet is a global network, it is impractical to control the content available to any one user. There exists, and you may likely discover, information that is inappropriate, controversial, or obscene. The City promotes the responsible use of the information that exists on the Internet. By the provision of an access point to the Internet, the City is committed to the belief that the value of the tool outweighs the risks that users may access material that is not consistent with the City's mission of providing quality government services.

User access, shall be filtered in an attempt to block profane, obscene (pornography) or other

inappropriate material. User activity and the operation of filtering protection measures may be monitored to ensure compliance with this policy. A system administrator may disable filtering to enable access for bona fide research or other lawful purposes.

Users should report to their immediate supervisor any message they receive that is inappropriate or makes them feel uncomfortable.

**J. Engaging in Illegal Activities:** Users shall not use or permit the use of the City computer system to engage in any illegal act.

Users shall not attempt to gain unauthorized access to the City computer system or to any other computer system through the City computer system, or go beyond their authorized access. This includes providing account information to another user, attempting to log in through another person's account or accessing another person's files. These actions are illegal, even if only for the purposes of "browsing".

Users shall not make deliberate attempts to disrupt computer system performance or destroy data by spreading computer viruses or by any other means. These actions are illegal.

**K. Using Inappropriate Language:** Restrictions against inappropriate language apply to public messages, private messages, and material posted on Web pages.

- Users shall not make or post indecent remarks, proposals, or materials.
- Users shall not use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language.
- Users shall not post information that, if acted upon, could cause damage or a danger of disruption.
- Users shall not engage in personal attacks, including prejudicial or discriminatory attacks.
- Users shall not harass another person. Harassment is persistently acting in a manner that distresses or annoys another person. If users are told by others to stop sending them messages, they must stop.
- Users shall not knowingly or recklessly post false or defamatory information about a person or organization.

**L. Failure to Respect Privacy:** Users shall not publicize a message that was sent to them privately without permission of the person who sent them the message nor post private information about another person.

**M. Copyright Infringement:** Downloading of non-executable files for business use is permitted. These would include reports, Adobe pdf's, information flyers, etc., from other institutions or government agencies that are needed by the City.

Executable software, such as downloadable screen savers – demo software – or software upgrades (excluding anti-virus updates that are approved by Information Technology Department), shall not be downloaded without first consulting with Information Technology staff. This type of software may contain viruses, which could harm the City's network. If such a file is required, it may be done by the Information Technology staff that can check the file for any infection.

Users shall not upload, download, or otherwise transmit commercial software or any copyrighted materials, except to the extent expressly permitted by the copyright owner. Users shall respect the rights of copyright owners. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by a copyright. If a work contains language that specifies acceptable use of that work, the user should follow the expressed requirements. If users are unsure whether or not they can use a work, users should request permission from the copyright owner. Because the extent of copyright protection of certain works found on the Internet is unclear, users shall make a standard practice of

requesting permission from the holder of the work if their use of the material has the potential of being considered an infringement.

Only City licensed software may be installed on any city-owned computer systems. No City owned software may be copied for use on other computer systems unless this right is specifically granted in the City's license agreement. Software may only be installed by Technology Staff members.

The Information Technology Director shall maintain records on software licensed on a city-wide basis. Department Heads shall maintain licensing records for all other software installed on department computers.

**N. Enforcement:** Employees who violate any of the guidelines set in the policy are subject to disciplinary action up to and including discharge. Other users who violate any of the guidelines set in the policy shall have their access terminated. The City also retains the right to report any illegal violations of local, state or federal law to the appropriate authorities.

#### DISCLAIMER:

The City makes no warranties of any kind regarding technical services, either express or implied, that the functions or the services provided by or through the City computer system shall be error-free or without defect. The City shall not be responsible for any damage users may suffer, including but not limited to, loss of data or interruptions of service. The City is not responsible for the accuracy or quality of the information obtained through or stored on the system. The City shall not be responsible for financial obligations arising through the unauthorized use of the system.

Access to the computer system is provided for business and business related purposes only. The City has taken precautions to restrict access to controversial materials. However, it is impossible to restrict access to all controversial materials. The City cannot be held responsible for materials available on the network.

Users should use discretion/caution in communication with others on the City's computer system including its internet access. The City assumes no responsibility for any personal losses you may incur while using the system.

The City shall not be responsible for any misuse of City computer systems. Persons found to be misusing the City computer systems shall be responsible for any costs or damages sustained by the City or a third party and those persons shall be required to indemnify the City for any claim against the City by a third party. City Employees may be subject to disciplinary action up to and including discharge.

# DRESS CODE

POLICY NUMBER: CEMS-034

## POLICY:

The City's public image is affected by its employees' personal appearance and hygiene. People judge the City's services partially based on the image projected by the employees. Therefore, all employees shall dress appropriately for the job and maintain good personal hygiene in a manner that creates a positive impression on the people they serve as well as their co-workers. Office employees shall wear business-like attire. Employees furnished uniforms by the City shall wear the complete uniform while on the job. This policy also applies to employees who are required to attend public events, to include the City's Council Work Sessions and Meetings.

### A. Appropriate Business Attire:

- Employees are expected to dress in a manner that is normally accepted in comparable government operations. All attire should be appropriately fitted;
- Where uniforms are required, they must be worn during working hours. The uniforms should be neat and clean when the employee arrives for work. (Employees required to wear uniforms should also refer to their specific departmental rules);
- Where uniforms are not required, appropriate professional business attire should be worn.

Although not an exhaustive list, examples of appropriate business attire are as follows:

WOMEN	MEN
Suits	Suits
Dress slacks, khaki/twill pants	Dress slacks, khaki/twill pants
Dress shirts with open collars	Dress shirts with open collars
Coordinated pants and shirts	Coordinated pants and shirts
Polo-type shirts with collars	Polo-type shirts with collars
Sweaters and cardigans	Sweaters and cardigans
Blouses	Blazers/sport coats
Skirts (no more than two (2") inches above the knee)	Dress shirts with buttons and collars
Dresses (no more than two (2") inches above the knee)	Ties
Flats, dress sandals, dress heels and backless shoes	Dress shoes, oxfords and loafers

### B. Inappropriate Business Attire:

- Shorts (except where necessitated by non-routine, work-related activities);
- Denim blue jeans. Please note, public services and zoning and inspections staff are permitted to wear denim jeans when conducting routine field work;
- Ripped, soiled, patched or stained clothing and hats;
- Clothing, hats or visors that contain offensive language or display alcohol, tobacco or illegal substance related language and/or images;
- Hats or caps indoors (except where allowed as part of the work uniform);
- Mini-skirts;
- Exposed midriff/tops or under garments;
- Flip flops, house slippers and any casual shoe with an open toe;
- Construction or hunting boots. Please note, public services and zoning and inspections staff are permitted to wear boots when conducting routine field work;
- Yoga pants or athletic wear (jogging suits of any type, unless allowed as a part of work requirements);

- Tank tops, tube tops, halter tops, tops with bare shoulders, backless, bare midriffs (unless worn under another blouse, shirt, jacket);
- Beachwear;
- Off-the-shoulder tops;
- Evening wear;
- No revealing, exceptionally deep cut or inappropriately fitted clothing;
- Casual capris or capris with strings or ties that hang from the cuff (dress capris are permissible);
- Spaghetti-strap tops/dresses (unless worn under another blouse, shirt, or jacket).

The City does authorize “Casual Fridays” as a routine practice. On those occasions, denim jeans are permissible as long as they are appropriate for the workplace. Employees are still expected to present a neat appearance and are not permitted to wear other items inconsistent with this policy. Direct supervisors and Department Directors have the responsibility to ensure that clothes worn on Casual Fridays by their employees are appropriate for work.

- C. **Reasonable Accommodations:** It is the intent of this policy to comply with applicable state, local and federal laws prohibiting discrimination on the basis of color, race, religion, sex or national origin. The City will make reasonable accommodations when the situation requires an exception in response to an employee’s request for accommodation unless the accommodation creates an undue hardship on the City.
- D. **Disciplinary Action:** Supervisors and directors are responsible for enforcing the dress code in their areas of responsibility. This includes documenting incidents related to violations, monitoring situations to spot abuses, taking appropriate disciplinary action and counseling employees who are inappropriately dressed. Violations of this policy may result in disciplinary action up to and including termination. If an employee’s clothing fails to meet policy standards, the employee will be considered as ‘reporting not ready to work’ and may be sent home for the remainder of the workday. Additionally, the employee may be subject to discipline up to and including termination. Disciplinary action for dress code violations should be issued in accordance with the Policy, CEMS-024. Any questions or complaints that cannot be handled by the employee’s Department should be referred to the HR Director for guidance.

# CODE OF ETHICS

POLICY NUMBER: CEMS-035

## POLICY:

The Code of Ethics is intended to provide ethical guidelines for City Councilors, employees and Council appointed Board and Commission members that are responsive to the public needs and preclude even the appearance of impropriety in the performance of their duties. All City Councilors, employees and Council appointed Board and Commission members have an obligation to conduct their official duties in a manner that serves the public interest, upholds the public trust and protects the City's resources. To this end, City Councilors, employees and Council appointed Board and Commission members have a responsibility to:

- Perform their duties to the very best of their abilities, treating the public and each other in a courteous manner that is fair and equitable, without regard to race, color, gender, age, religion, national origin, disability, political affiliation, or any other factor unrelated to the impartial conduct of City business;
- Demonstrate integrity, honesty, and ethical behavior in the conduct of all City business;
- Ensure that their personal interests do not come into conflict with their official duties, resulting in a real conflict of interest or the appearance of a conflict of interest when dealing with vendors, customers, and other individuals doing business or seeking to do business with the City;
- Ensure that they do not accept any gift, favor or thing of value that may tend to, or be reasonably perceived to, influence the discharge of their duties, or grant any improper favor, service or thing of value in the discharge of their duties. This shall include the acceptance of a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter affecting the donor. This prohibition shall not apply to the acceptance of any gift, favor or thing of value that benefits the City and/or the community as a whole;
- Ensure that information concerning the property, government or affairs of the City is held confidential, disclosed only with proper legal authorization, and never to advance the financial or other special interest of themselves or others;
- Ensure that all City resources, including City funds, equipment, vehicles and other property, are used in strict compliance with City policies and solely for the benefit of the City;
- Avoid any behavior that could fall under the definitions of misconduct in the City's "Professional Conduct Policy," within the City's Comprehensive Employee Management System.

Councilors, Board and Commission members, Department Heads, and supervisors must take a leadership role in the promotion and execution of the Code of Ethics. All City officials and employees have a responsibility to place cooperation, trust, and respect at the head of all they do.

# FREEDOM OF INFORMATION ACT (FOIA)

POLICY NUMBER: CEMS-036

## POLICY:

City employees should have a solid understanding of the Virginia Freedom of Information Act (Code of Virginia §§ 2.2-3700 et. seq.) due to the fact that so much of the work done by City employees may be subject to FOIA requests.

The media and general public, upon request, will be provided access to all records or proceedings which have been deemed to be of a public nature, which include (partial list only):

- Written records of City Council meetings;
- City contracts, ordinances, and resolutions;
- Financial documents such as the budget, Capital Improvement Program, copies of invoices, revenues, and expenditures;
- Names, dates of employment, and the salaries of public officials over \$10,000;
- Factual portions of reports, memos, letters, and e-mails which do not address a personnel claim or litigation. Conclusions, opinions, or recommendations are not required to be released;
- Records of any formal City Council action;
- Completed project files.

Any request for public records, whether written or oral, should be considered a FOIA request. A requestor need not mention or identify the Freedom of Information Act in order to impose the requirements of the Act. When in doubt as to whether or not a request involves FOIA, an employee should inquire through their chain of command to the designated FOIA Officer who may thereafter consult with the Office of the City Attorney. Requests for information received by City staff should immediately be forwarded to the City's designated FOIA Officer for review. In responding to any request for public information, time is of the essence. An employee should not delay in forwarding a FOIA request to the City's designated FOIA Officer. Failure to provide a timely response could result in a waiver of any applicable FOIA exclusion.

If a court finds that an official or employee knowingly violates FOIA by failing to provide documents to which the requestor is entitled, the official or employee can be fined up to \$1,000 for an initial violation and up to \$2,500 for a second or subsequent violation. As a matter of law, such fines must be paid by the individual (not from public funds). The City may also be responsible for paying the requestor's legal fees.



# COMMUNICATION POLICY

POLICY NUMBER: CEMS-037

## PURPOSE:

To ensure that communications across the City of Winchester organization are well coordinated, effectively managed, accurate, accessible, and responsive to the diverse information needs of the public. To serve as a guideline to cultivate open, honest, effective communication with the community in order to nurture better understanding and support of City goals, programs, projects services and initiatives.

## POLICY:

The City of Winchester exists to serve the public. Communication, the giving and exchanging of information, is important to that mission. All City employees, volunteers and interns are expected to abide by this Communications Policy.

It will be the policy of the City of Winchester to foster and encourage an atmosphere of openness and transparency and to:

- Provide the public with timely, accurate, clear, objective and complete information;
- Employ a variety of ways and means to communicate, and provide information in multiple formats to accommodate diverse needs;
- Identify and address communication needs and issues routinely in the development, implementation and evaluation of policies, programs, services and initiatives;
- Consult the public, listen to and take account of people's interests and concerns when establishing priorities, developing policies, and planning programs and services;
- Deliver prompt, courteous and responsive service that is sensitive to the needs and concerns of the public and respectful of individual rights.

## A. Roles and Responsibilities

The City Manager or his/her designee is responsible for administering the City's public communication programs and shall be the official staff spokesperson for the City.

### Communications Department Responsibilities:

1. Be aware of all activities in, and all actions of, the City.
2. Assist media in gaining information from department directors, City Council members, Board and Commission members, and public records.
3. Track media coverage of City-related meetings, events, projects, programs, services, and issues.
4. Disseminate all news releases.
5. Manage the City's official web presence via social media sites and the City's websites.
6. Manage the City's government access cable channel, mobile apps, notification system, records management programs, newsletters, service requests systems, podcasts, and news shows.
7. Provide design and video creation services to all City departments.
8. Conduct the City's community survey every three years.

### Role of Department Directors:

1. Keep the Communications Department informed of employee or department accomplishments, and items of human interest to promote positive public relations.
2. Disseminate City information to the Department's employees to keep them informed.
3. Notify the Communications Department of activities, positive or negative, that are likely to draw media or public interest.
4. Inform the Communications Department immediately when contacted by the media. All contacts to and from the news media must be channeled through the Communications Department prior to interview or the exchange of information.

### Role of City Employees:

1. Inform the Communications Department or Department Director immediately when contacted by the media. All contacts to and from the news media must be channeled through the Communications Department prior to interview or the exchange of information.
2. Immediately forward all requests for public documents to the City's FOIA Officer or Department Director.

The responsibility for assuring complete compliance with the provisions of this policy rests with the Department Director, supervisors and the individual employee involved. It is the responsibility of social media users and those engaged in social networking to stay informed regarding City policies related to this activity.

**B. Expectations:** When interacting with the general public, the values shared by the City of Winchester and its network of professionals must be upheld at all times:

1. Customer Service
2. Transparency
3. Quality
4. Responsibility
5. Participatory
6. Timely
7. Respectful

Authorized employees representing the City government while using any of the City's communications outlets must conduct themselves at all times as representatives of the City (refer to the City's Acceptable Behavior in the Workplace Policy and the City Manager's Expectations). While acting in this capacity, employees:

1. Shall not make insulting or offensive comments, engage in harassment hate speech or libel.
2. Are prohibited against disclosure of confidential information or information that could breach the security of the City in any way.
3. May not attribute personal statements or opinions to the City.

Employees that fail to conduct themselves in an appropriate manner will be subject to the disciplinary action outlined in the Comprehensive Employee Management System.

Use of any of the communications medium used to communicate information to the public must comply with applicable federal, state and City laws, regulations and policies. This includes adherence to established laws and policies regarding copyright, records retention, Freedom of Information Act (FOIA), First Amendment, privacy laws, and information security policies established by the City.

**C. Media Relations:** It is in the City's interest to provide the public with accurate and timely information. Print, television, radio and internet media play a critical role in providing City-related information to the community. Only designated City employees can provide the media with an official statement on behalf of the City. City employees who are not authorized must not provide information to the media without the approval of the Communications Department.

The City employees must follow the City's media relations procedures:

- The City's Communications Department must be notified about all media inquiries without delay.
- All City press releases, media notices, media outreach and advisories must be coordinated by the Communications Department and approved by the City Manager.
- The Communications Department approves and schedules interviews between media and staff.
- A staff member shall not attribute his or her personal views as those of the City when talking with the media.
- Employees authorized to speak to the media should not guess or speculate about City policy, services or programs.
- The City Manager grants approval on a very limited basis for commercial filming and photography on public property. Requests must be coordinated through the City's Special Event Permit process.

Unless otherwise required under applicable law, reports prepared by staff for submission to City Council shall not be shared with the media or the general public until the agenda packets have been delivered to City Council and authorization has been provided by the City Manager or his/her designee. This shall not be construed to apply to reports submitted to City Council. With regard to these reports, it shall be the responsibility of the

respective Board or Commission liaison to ensure that all significant or sensitive matters are discussed with the City Manager or his/her designee prior to release of the information to the media, general public or the applicable Board or Commission.

News releases shall not contain information which is confidential pursuant to provisions of State or Federal law or has which been received by the City pursuant to a representation of confidentiality. Documents or information exempt from disclosure shall not be contained in any news release without City Manager approval.

**D. Social Media:** The City of Winchester engages customers through many digital outlets. Communicating through social media further enables customers to contact the City of Winchester in a direct and meaningful way. All official City of Winchester social media sites are considered an extension of the City's information network and are governed by the Communications Policy.

- The City's Communications Director will serve as the official spokesperson for the City on official City of Winchester social media sites.
- Use of social media sites as a spokesperson for the City or for a department/division of the City must be authorized by the employee's Department Director and coordinated with the City's Communications Director.
- The City Manager or his/her designee will review department requests to use social media sites.
- The Communications Director will monitor content on each of the department social media sites to ensure adherence to the Communications Policy for appropriate use, messaging and branding consistent with the goals of the City.
- The Communications Director will use social media as a public education and communication tool while advocating to help departments reach their stated goals.
- Electronic information posted to a social media site by the City, or a member of the public, may be considered a public record subject to Virginia's Freedom of Information Act.
- Site content shall be maintained in accordance with its respective Records Retention Schedule and in accordance with City Information Technology policies and procedures.
- Posts deemed technically harmful or inappropriate pursuant to Section E of this policy shall be promptly documented and saved according to record retention guidelines and removed.
- Use of social media sites:
  - Personal use of social media sites is prohibited during working hours.
  - Use of City computers or devices to access personal social media sites is prohibited.
  - The City logo or City Seal may not be used on personal social media sites.
- Employees representing the City government via social media outlets must conduct themselves at all times as representatives of the City (refer to the City's Acceptable Behavior in the Workplace Policy): While acting in such capacity, employees:
  - Shall not use a personal email or social media account to set up or utilize City of Winchester social media sites. In turn, City of Winchester email addresses cannot be used in conjunction with a personal social networking site.
  - May not comment on work-related matters unless they have been designated as an official spokesperson and have the approval to do so.
  - Shall not post images, files or text depicting City property, equipment or personnel in any manner that would adversely affect the reputation of the City or a City department.
  - Shall not make insulting or offensive comments or engage in harassment, hate speech or libel;
  - Are prohibited against disclosure of confidential information or information that could breach the security of the City in any way.
  - May not attribute personal statements or opinions to the City when engaging in private blogging or postings on social media sites.

Employees that fail to conduct themselves in an appropriate manner shall be subject to the disciplinary action outlined in the Comprehensive Employee Management System.

**E. Social Media Public Posting Policy:** The goal of the City of Winchester social media pages is to be a helpful medium that is conducive to real-time discussions and useful feedback. Some of the City's social media pages allow public interaction in the form of comments. The City of Winchester shares information, images and video with the public through external social media websites. Comments made by the public to these sites are

reviewed and, while comments will not be edited by City personnel, a comment may be deleted or hidden if it violates the comment policy described below (subject to amendment or modification at any time):

- Obscene, indecent or profane language, pictures and/or videos;
- Threats, personal attacks or defamatory statements;
- Hate speech directed at race, color, gender, sexual orientation, national origin, ethnicity, age, religion or disability;
- Fraudulent, deceptive or misleading information;
- Comments not related to the posted topic for the City of Winchester social media page or post;
- Multiple successive off-topic posts by a single user or repetitive posts copied and pasted by multiple users, or spam;
- Promotion or endorsement of services and products;
- Comments advocating illegal activity or posting of material that violates copyrights or trademarks of others;
- Violate any local, state or federal laws and/or otherwise unlawful;
- Campaign materials promoting or opposing an individual in an election for political office.

Users are welcome to submit or post content, including photographs and videos, to an official City site where users are allowed to post comments, however, the content must meet the standards articulated in this policy and pertain to the subject of the social media site. Users may only post their own, original content. Reproduced or borrowed content that reasonably appears to violate third party rights will be deleted. Users should have no expectation of privacy when posting to a City site.

**F. Blogs:** Blogs are considered a type of social media. All City blogs must adhere to this Communications Policy, specifically Section D titled “Social Media” in this policy. The establishment of a City blog must have prior authorization by the City Manager and all blog content must be pre-approved by the City Manager or his/her designee prior to posting.

**G. Podcasts:** Podcasts are considered a type of social media. All City podcasts must adhere to this Communications Policy, specifically Section D titled “Social Media” in this policy.

The establishment of a City podcast must have prior authorization by the City Manager and all podcast content must be pre-approved by the City Manager or his/her designee prior to posting.

**H. Website:** The City of Winchester recognizes the value and potential of the City’s websites as a tool to support and communicate the City’s mission, services, programs and initiatives.

Information presented on City of Winchester websites is collected, maintained, and provided for the convenience of the community. The City of Winchester website must adhere to the Communications Policy. City of Winchester staff makes a considerable effort to ensure that information published on the City websites is accurate and current.

Individual departments within the City shall not host their own websites unless authorized by the City Manager. The Communications Department maintains the City’s official website ([www.winchesterva.gov](http://www.winchesterva.gov)) content and design. Only City staff authorized and trained by the Communications Department can make updates to the City’s official websites. Departments may request updates to their web pages to authorized staff members or the City’s Communications Department. The Communications Department reserves the right to monitor and edit any modifications or additions to department web pages.

The City strives to provide as much information as possible on the official website in a clear and concise way. Providing accurate, current and accessible information is a priority. Time-sensitive information must be posted and removed appropriately.

Website content requirements:

- Use appropriate grammar, punctuation and spelling
- Follow the website’s branding requirements
- Upload only PDF and image files

- Embed videos using YouTube embed codes (must have prior authorization from the Communications Department)
- Add content to a web page instead linking to a PDF document
- Use web forms whenever possible
- Convert all PDF forms to a fillable document with the ability to be saved
- Follow all Americans with Disabilities Act requirements for websites
- Requests for Winchester-related foundation “donations” are prohibited

All public meeting dates, times, and locations must be posted at least 72 hours in advance on the City’s online meeting calendar. Agendas for the City’s boards must be posted online immediately upon approval or at the same time the members are provided the agendas. Minutes of the City’s boards must be posted online immediately following their approval by the board. Refer to the City’s Board and Commission Appointment and Operation Guidelines for more information.

The City of Winchester permits certain links to other non-City websites to provide greater public access to community information. The City of Winchester is not responsible for the content of external websites. A link from the City of Winchester websites does not constitute or imply endorsement, recommendation or favoring of any specific commercial product, viewpoint or service. External links are limited to the following:

- Official government websites including federal, state and local.
- An organization whose website primarily promotes the economic welfare and tourism of Winchester.
- An organization whose website provides recreational, health, public safety, natural disaster or weather information that affects the City of Winchester.
- Local public and regional higher educational institutions.
- Local hospital.
- Local public library.
- Local airport.
- Utility companies that serve the City of Winchester residents.

Refer to the City's website privacy policy which addresses the collection, use and security of information that may be obtained through use of the City of Winchester website, and access to that information

**I. Government Access Channel 6:** The City’s Communications Department manages the bulletin board and video schedule, creates and approves slide requests from departments and government partners. Refer to the City’s Government Access Channel Policy.

**J. Publications:**

Newsletters

- The City utilizes electronic newsletters as a means to keep the public informed of City services, programs, events and initiatives. The City’s Communications Department is responsible for the weekly CitE-News (City) and monthly ActivitE-News (Parks) and other public-facing City departmental newsletters. The Development Services Department is responsible for the monthly Old Town Winchester electronic newsletter.
- The Communications Department must review all public newsletters prior to dissemination. All public newsletters must adhere to the Communications Policy/Procedures.
- The City will not use the email addresses provided by the public for any other purpose, however, the subscription list is considered a public record and is subject to disclosure to third parties upon request.

Media: Kits for major projects, announcements or press conferences, media kits are an excellent way to disseminate accurate information. The kit typically includes a news release, fact sheet, architectural drawings, maps, charts, or photographs. The Communications Department will review all media kits prior to dissemination.

Collateral: Materials Brochures, flyers, reports and miscellaneous publications are especially effective for quick explanations of programs, projects, events and services. They should be visually interesting and include basic



facts (who, what, when, where and why). The Communications Department will assist with the production of these materials.

**Emergency Communications:** During emergencies, the Communications Director serves as the Emergency Support Function 15 (External Affairs) in the City's Emergency Operations Plan and staffs the Emergency Operations Center, if activated. Refer to the City's Emergency Operations Plan.

The City utilizes a Notification System (Winchester Alerts) to notify the public of emergencies situations and non-emergency information. Winchester Alert messages are coordinated through the City's Communications Director and the Emergency Management Coordinator.

Only pre-approved and trained staff are permitted to use the notification system. Sharing login credentials is prohibited. Employees using the system must do so in a professional and responsible manner and adhere to the Communications Policy/Procedures. Refer to the Emergency Notification System Standard Operating Procedures document.

- K. City 311:** The City 311 program is managed by the Communications Department and provides local residents, businesses and visitors the ability to submit service requests and ask questions using an online portal. The request can be submitted via computer or mobile device and is automatically sent to the appropriate staff for handling.

Only pre-approved and trained staff are permitted to use the system. Sharing login credentials is prohibited. Employees using the system must do so in a professional and responsible manner and adhere to the City's Communications Policy/Procedures and the CEMS.

- L. Mobile Apps:** The City's mobile apps are managed by the Communications Department. Only pre-approved and trained staff are permitted to make changes to the apps or use the push notification features. Sharing login credentials is prohibited. Employees using the apps must do so in a professional and responsible manner and adhere to the City's Communications Policy/Procedures and the CEMS.

- M. Special Projects/Events:** Communication is the key component of any special event or project to reduce negative impacts and to keep the community informed. Therefore, the Communications Department should be included in advance planning of all major City projects and events (i.e. groundbreaking ceremonies, news conferences, community events). In addition, the Communications Department is available to consult with each City department to promote City services and programs.

- N. Accessibility:** The City of Winchester strives to provide all information to the public in accordance with the Americans with Disabilities Act.

# VIOLENCE FREE WORKPLACE

POLICY NUMBER: CEMS-038

## PURPOSE:

The City of Winchester (herein after the City) recognizes that violence at work, family violence, and any other violence can affect any employee's work performance. The purpose of the policy is to reduce the possibility of death or injury as a result of workplace violence and to foster a work environment of respect and healthy conflict resolution. Nothing is more important to the City than the safety and security of its employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on City property will not be tolerated. Violations of this policy by employees will lead to disciplinary action which may include discharge, arrest, and prosecution. This is a zero tolerance policy.

## DEFINITIONS:

- Violence is an action of physical force, harassment or intimidation;
- Threat is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional or future;
- Physical attack is unwanted or hostile physical contact such as hitting, fighting, pushing, shoving, throwing objects or using a weapon;
- Property damage is intentional damage to property which includes property owned by the City, Schools, employees, visitors or vendors;
- Harassment is to intimidate or annoy persistently.

## PROCEDURE:

The City recognizes that an employee can be exposed to many different types of violence including between employees, between employee and supervisor, between employee and customer, or between an employee and a family member or former friend. It further acknowledges that many of its employees are exposed to violence by the very nature of their jobs. The City asserts that any acts of violence are not acceptable and establish the following procedures to take preventative and/or corrective action:

- Any employee who makes threats, exhibits threatening behavior, or engages in violent acts on City property shall be removed from the premises as quickly as safety permits, and shall remain off the premises pending the outcome of an investigation. The City will initiate an appropriate response. This response may include, but is not limited to, disciplinary action and/or criminal prosecution of the person or persons involved;
- The unauthorized possession or use of firearms or other weapons to include, but not limited to, items manufactured to resemble a weapon by employees on City property or during working hours is strictly prohibited. Violation of this shall result in suspension and/or discharge;
- Similar situations could occur in employee contacts with the public;
- While the City has a strong commitment to customer service, employees should not be subjected to abuse. A supervisor should be requested to intervene when a customer is abusive. If there is concern over the possibility of physical violence, it should be immediately called to the attention of a supervisor or another employee so measures may be implemented to reduce the threat and protect the employee. These include calling the Police Department (911 or 9911) and/or removing the customer from the premises;
- All employees who apply for or obtain a protective or restraining order which lists the City locations as being protected areas, must provide to the HR Director and the Department Head a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent;
- No existing City, practice, or procedure should be interpreted to prohibit decisions designed to prevent a



threat from being carried out, a violent act from occurring or a life threatening situation from developing;

- All City personnel are responsible for notifying the HR Director, Department Head of any threats which they have witnessed, received, or have been told that another person has witnessed or received. Even without an actual threat, employees shall also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on a City controlled site, or is connected to City employment. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who were threatened or were the focus of the threatening behavior. If the HR Director, Department Head is not available, employees shall report the threat to the supervisor. A Workplace Violence Incident Report is provided to employees at all worksites;
- Any report of violence will be handled in a confidential manner, with information released only on a need-to-know basis. Employees who report real or perceived violent behavior or violations of this policy will not be retaliated against or subjected to harassment.

#### PROGRAM COMPONENTS:

The City shall ensure the following components of an effective program of preventing workplace violence (as outlined in the U.S. Department of Labor's OSHA Guidelines for Preventing Workplace Violence) are implemented and maintained:

- Management commitment and employee involvement;
- Policy development and implementation;
- Worksite security and records analysis;
- Hazard prevention, control, and workplace adaptation;
- Training and education;
- Evaluation of program.

# DRUG AND ALCOHOL FREE WORKPLACE

POLICY NUMBER: CEMS-039

## PURPOSE:

The City of Winchester is committed to the safety and well-being of employees and the public. The abuse of drugs or alcohol in the City workplace jeopardizes the productivity of employees, poses a safety and health threat to employees and the public, and erodes public trust and confidence in the City government.

## OBJECTIVES:

- Provide a workplace free of alcohol and drugs;
- Perform alcohol and drug testing as a responsible employer;
- Protect the City's employees and the public from the harmful effects of alcohol and drugs;
- Comply with U.S. Department of Transportation Requirements for Public Transportation Employees (49 CFR Part 655) and Employees Requiring Commercial Licenses (40 CFT Part 382);
- Comply with the Drug-Free Workplace Act of 1988 (49 CFR Part 29 and 49 CFR Part 32).

## POLICY:

In compliance with the Drug-Free Workplace Act of 1988 and Omnibus Transportation Employee Testing Act of 1991, no employee shall do any of the following while on City premises or while conducting City business:

- Use, sell, dispense, possess, or manufacture alcohol or illegal drugs;
- Be under the influence of alcohol, illegal drugs; or
- Have alcohol or illegal drugs present in their bodies.

All City employees are hereby notified that the City is committed to providing its employees with a drug and alcohol free work environment. As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. **All violations will result in discharge unless otherwise noted.**

Any employee who is convicted of a drug violation must notify the City in writing, within five days.

In order to meet all Federal substance abuse policy regulations for the City's personnel population, there will exist two mutually exclusive groups within the City structure that are governed under two separate policies:

- Transit System Mandated Safety Sensitive positions who are primarily covered by the Omnibus Transportation Employee Testing Act of 1991. (See Attachment W for the Winchester Transit System Substance Abuse Policy);
- Non-Transit City Employee positions are covered by the Drug Free Workplace Act of 1988.

Referral to the specific policy will provide all procedures, practices, and policy governing your employment with the City of Winchester, as amended.

**A. Employees Affected:** This policy applies to any employee of or applicant for the City of Winchester in any full-time, part-time, classified, non-classified, temporary, probationary, on-call or other position that follows the City's personnel policies and which is a mandated safety-sensitive or a non-mandated safety-sensitive position as these terms are defined herein.

**B. Types of Testing:** Submission to Testing—All employees and applicants shall submit to testing for the presence of drugs and alcohol in the following situations and under the following circumstances:

- Pre-employment Testing for Safety Sensitive positions as defined below;

- Reasonable Suspicion;
- Post-Accident Testing;
- Return to Duty Testing;
- Follow-up Testing or Periodic Testing.

For the purposes of this policy, "Safety Sensitive positions," include all employees in the Winchester Police and Fire & Rescue Departments, the Emergency Communications Center, the Northwestern Juvenile Detention Center, and the Wastewater and Water Treatment Plants. Employees of the Department of Social Services and all employees whose jobs require them to deal directly with children- such as lifeguards and recreation workers are also considered working in Safety Sensitive positions. Finally, positions that require a CDL or carry a risk of massive property damage, personal injury or death are considered Safety Sensitive.

**C. Disciplinary Action for Violation of Substance Abuse Policies:** All violations of the City's *Winchester Transit System Substance Abuse Policy* and *Winchester Employee Substance Abuse Policy* will be either denied employment or immediately discharged from duty, unless otherwise noted.

- The City does not recognize any second chance policy;
- Any employee covered under either policy and commits or is convicted of a drug or alcohol related felony shall be terminated, irrespective of whether the offense took place while the employee was on City premises or conducting City business;
- Any employee covered under either policy commits or is convicted of a drug or alcohol related misdemeanor shall be terminated if the offense took place while the employee was on City premises or conducting City business or if the offense is reasonably related to the employee's fitness to perform the employee's job responsibilities;
- Employees who are not in violation of this policy are not subject to disciplinary action as a result of voluntarily seeking EAP assistance for alcohol or drug abuse problems, except as noted in the objectives above. However, employees who violate this policy will be disciplined in accordance with the policy irrespective of whether or not they have received or are receiving voluntary assistance for alcohol or drug abuse problems through the EAP. Additionally, voluntary involvement in the EAP shall not be considered a mitigating factor in determining the appropriate disciplinary action to be taken for a violation of this policy.

**D. Consent for Testing:** As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. Employees who refuse to be tested, or who do not cooperate with a test shall be disciplined as if they failed the test and are subject to additional disciplinary action for insubordination.

**E. Legitimate Use of Drugs Affecting Test Results:** Any employee who conclusively establishes by competent medical evidence that a positive drug test result was caused by the presence of a prescription drug which the employee was taking in accordance with a valid prescription, or as the result of the use of a non-prescription drug which the employee was taking properly for a bona fide medical purpose, shall not be deemed to have violated this policy because of failing a test for that drug.

**F. Confidentiality of Test Results:** The result of any drug or alcohol test that is performed pursuant to this policy shall be confidential and shall be made known only to those City employees who are directly involved in any disciplinary decision made as a result of such test results or in any grievance arising out of such disciplinary decision. The result of any drug or alcohol test that is performed pursuant to this policy shall not be used in any criminal proceeding against the tested employee; however, in appropriate circumstances, any other information obtained by the City regarding an employee's violation of this policy may be used in a criminal proceeding against the employee.

**G. Employee Assistance Program:** The City maintains an Employee Assistance Program (EAP) to provide help to employees who are impaired by alcohol or drugs, or other personal or emotional problems. Any

employee who has a drug or alcohol-related problem is encouraged to voluntarily seek treatment through the City's EAP or through a treatment program or facility of his own choice, before the problem affects their employment. However, use of the EAP will not be a defense to the imposition of disciplinary action if the employee engages in conduct constituting a violation of either this policy or of the City's Disciplinary Action Policy.

**H. Notice of the Drug and Alcohol Free Workplace Policy:** The City shall provide written notice of this policy to all employees and applicants.

# GENERAL RISK AND SAFETY

POLICY NUMBER: CEMS-040

## PURPOSE:

To establish a Risk and Safety program that complies with all Occupational Safety and Health Administration (OSHA) laws to provide a safe and healthy workplace for all employees.

## POLICY:

It shall be the responsibility of each employee within the City work force to perform and follow safety rules and to report any unsafe conditions at all times.

It shall be the responsibility of all supervisors to promptly investigate and correct any unsafe acts immediately.

It shall be the responsibility of each Department Head to develop and maintain safe working practices that follow the intent of the City of Winchester Risk and Safety program and develop job related safety practices that are specific to the department duties and responsibilities.

Department Heads are responsible for developing proper attitudes toward safety and health in themselves, and for ensuring that all operations are performed with the utmost regard for the safety and health of all employees involved, including themselves. Employees are responsible for reporting unsafe practices/conditions, potential ideas or areas of improvement, and for continuously practicing safety while performing their duties.

The City Manager through the HR Director shall be responsible to develop City wide safety and health procedures or programs that are designed to cover all city employees regardless of which department they are assigned as outlined below. The HR Director shall assist Department Heads or designees in the development of any departmental safety and health procedures that meet specific work tasks for individual departments but not necessarily for all city employees.

The City Manager has primary authority for general oversight of health and safety procedures or programs along with authority to audit city departments regarding their health and safety procedures or programs.

The City of Winchester shall monitor the Risk and Safety program for effectiveness and improvements, and shall provide the resources and safeguards required to ensure safe working conditions.

### A. General Safety:

- Employees shall abide by all VOSH/OSHA regulations relevant to their assigned job duties;
- Department Heads and supervisors are required to be knowledgeable of these regulations and enforce compliance and retrain their employees when necessary;
- Employees shall avoid horseplay, clowning around, daring games and mischief activities that could cause injury;
- Unsafe or malfunctioning machinery shall be taken out of service and reported to your supervisor immediately. Machines under repair must be tagged "DO NOT OPERATE" until repairs are completed;
- The use of compressed air to clean any part of your clothing or body is prohibited;
- All work areas shall be kept clean, orderly and in a sanitary condition;
- Employees shall take all standard safety precautions to prevent injury to yourself or fellow employees;
- Employees shall walk cautiously up and down stairs and around blind corners;
- Chairs, wastebaskets, electric cords and other articles shall not be left in aisles or where they constitute a tripping hazard;

- Desk drawers and writing boards, cabinet doors, files shall not be left standing open. Only one drawer of a large multiple drawer file cabinet should be opened at one time;
- Material shall be stored on shelves in a manner to prevent falling; heavy objects shall be placed on lower shelves;
- It is the departments responsibility to perform a Personal Protective Equipment assessment for job activity and it is the responsibility of the employee to wear the assigned PPE when it is required;
- Employees shall comply with all specifically established departmental safety regulations.

#### **B. Hazardous Communication Standard:**

- Compliance with the Virginia Occupational Health and Safety Standard, 1910.1200, Hazard Communication is to be accomplished through appropriate container labeling, safety data sheets, education, and training at the department level. Safety Data Sheets (SDS) are available through a web-based safety data sheet program. Each department will retain record of periodic updates, record maintenance, training purposes, and resource planning.
- Container Labeling: No chemical will be accepted from a manufacturer or distributor unless properly labeled with identity of substance and appropriate hazard warnings.
  - The supervisor at each worksite will verify that all containers received for use will:
    - i. Be clearly labeled as to the contents;
    - ii. Note the appropriate hazard warning; and
    - iii. List the name and address of the manufacturer / importer / or responsible party.
    - iv. It is the policy of the City that no container will be released for use at any worksite until the above data is verified.
  - The supervisor will also ensure that all secondary containers are properly labeled with identity of substance and appropriate hazard warnings.
- Safety Data Sheets (SDS): Copies of SDSs for all hazardous chemicals to which employees of the City may be exposed shall be accessible through the web-based safety data sheet program. SDSs will be available to all employees for review during each work shift. If SDS are not available or new chemicals in use do not have SDS, please immediately contact the supervisor or the HR Director. The City's Purchasing Agent shall insure that all chemical requisitions include an SDS submittal requirement. No chemical will be accepted from a manufacturer or distributor unless accompanied by an SDS or one is currently on file.
  - Employee Training and Information shall be provided at the worksite to receive on the following:
    - i. An overview of the requirements contained in the Hazardous Material Communication Standard;
    - ii. Chemicals present at the worksite;
    - iii. Physical and health effects of the hazardous chemicals;
    - iv. Methods and observation techniques used to determine the presence or release of hazardous chemicals in the work area;
    - v. How to lessen or prevent exposure to these hazardous chemicals through usage of personal protective equipment;
    - vi. Steps the City has taken to lessen or prevent exposure to these chemicals;
    - vii. Safety emergency procedure to follow if they are exposed to these chemicals; and
    - viii. How to read labels and review MSDSs to obtain appropriate hazard information.
  - Prior to a new hazardous chemical being introduced into any division, each employee of that division will be given information as outlined above.
- Hazardous non-routine Tasks: Periodically, employees are required to perform hazardous nonroutine tasks. Prior to starting work on such projects, each affected employee will be given information by their supervisor about hazardous chemicals to which they may be exposed during such activity. This information shall include:
  - i. Explanation of the non-routine task and the specific chemical hazards associated with it;
  - ii. Protective/safety measures the employee can take; and
  - iii. Measures the City has taken to lessen the hazards including ventilation, respirators, presence of another employee, and emergency procedures.
- Chemicals in Unlabeled Pipes: Occasionally, work activities are performed by employees in areas where chemicals are transferred through unlabeled pipes.



- Prior to starting work in these areas, the employee shall contact the supervisor for information on the chemicals in the pipes, the potential hazards, and safety precautions which should be taken.
- **Informing Contractors:** It is the responsibility of the appropriate City Department Head to provide the contractor the following information:
  - hazardous chemicals to which their employees may be exposed while on the job site;
  - precautions the employees may take to lessen the possibility of exposure by usage of appropriate protective measures; and
  - confined space hazards and procedures.

**C. Exposure Control Plan:** The plan shall meet the guidelines of the following federal and state regulations and best practices:

- Virginia Occupational Safety and Health (VOSH) Standard on Occupational Exposure to Bloodborne Pathogens, 29 CFR Part 1910.1030;
- National Fire Protection Association (NFPA) 1581 Infection Control Standard;
- Centers for Disease Control recommended practices; and
- Current applicable federal and state regulations.

This policy applies to all City employees however specific departments and positions have been identified to be at-risk and shall conform to this policy due to the nature of their job tasks and exposure risk. Departments must follow in full the direction of the City's Exposure Control Plan.

**D. Confined Space Entry:** Confined space entry shall comply with the Virginia Confined Space Entry Standard for General and Construction Industries. All employees who may be exposed to the hazards of entry into confined spaces must be covered by this policy and practice departmental procedures. All departments, specifically the Public Services Department, that perform responsibilities requiring work in a confined space are required to establish a written comprehensive procedure. Each department will retain a copy for periodic updates, record maintenance, training purposes, and resource planning.

**E. Fall Protection:**

- Approved types of ladders, step stools or other safe supports shall be used to reach material on high shelves or at other elevation out of arms reach;
- Only use ladders for their designed purposes.
- Always inspect the ladder prior to use.
- Avoid electrical hazards, look for overhead power lines before handling a ladder. Avoid using a metal ladder near power lines or exposed energized electrical equipment.
- Ladders shall not be placed in front of doors opening toward the ladder unless the door is blocked, locked or guarded. A ladder placed in any location where it can be displaced by other work activities must be secured to prevent displacement or a barricade must be erected to keep traffic away from the ladder.
- When ascending or descending ladders, employees shall have both hands free and shall face the ladder. Always maintain a 3-point (two hands and a foot, or two feet and a hand) contact on the ladder when climbing. Keep your body near the middle of the step and always face the ladder while climbing.
- Only City-owned ladders shall be used by employees.

**F. Fire Prevention and Protection:** All City facilities are protected from fire by the use of sprinklers, extinguishers and alarms as appropriate for the facility. But people and procedures are the key to eliminating potential fire hazards. Detailed below are requirements for fire prevention and protection.

- Smoking is not permitted in any City facility or vehicle;
- Candles are not allowed to be lit in City buildings and no scented liquids or oils are permitted to be placed on light bulbs or electric hot plates;
- Combustible materials shall not be accumulated or stored in staircases, mechanical, electrical or telephone equipment rooms, or adjacent to the exterior of any structure. Combustible trash, i.e. oily shop rags, etc., from the premises must be removed frequently. Trash awaiting removal should be



- kept in covered metal containers;
- Limit the use of electric hot plates, microwaves, toasters and coffeepots to a cafeteria, vending-machine area, or other specially confined area that is free of combustibles or chemicals. All electrical equipment must be grounded and never overload a circuit;
- Portable heating units may be used to supplement required heating systems as long as they are three feet away from any combustible materials, i.e. wooden desks, etc.;
- Flammable liquids must be stored in approved safety cabinets or containers at all times;
- The access to fire doors, fire extinguishers, and AED's shall be kept clear and free from obstruction at all times;
- Electrical extension cords shall not be used continuously or as a substitute for permanent wiring;
- Open flames, i.e. lit candles, are not permitted;
- The use of a heater may be necessary for some office or workstations. Employee must maintain the heaters at least three (3) feet away from any combustible materials, i.e. desk, clothes, and never leave the heater 'on' when unattended;
- Fire extinguishers rated "ABC" are multi-purpose and may be used on any type of fire.

**G. Emergency Action Plan:** The primary purpose of the City's Fire Emergency Plan is to provide a course of action to follow should a fire or other emergency occur within any City building or facility.

- Fire drills shall be held bi-annually or as deemed necessary. It should be emphasized to the employees that exit routes and fire doors must remain unobstructed. Such essential knowledge and habits to conform to emergency procedures shall be instilled in personnel during fire drills;
- The City's Fire Alarm system consists of manual pull stations, heat and smoke detectors, annunciator, alarm and sprinklers system;
- Most facilities are equipped with Manual Fire Alarm Pull stations that will automatically sound the Fire Alarm when activated and notify the Fire dispatcher and are located on all floors near emergency exits. All personnel shall be aware of their locations.
- City facilities are equipped with an audible fire alarm system. When activated, the alarm will sound a continuous loud buzzing until it has been reset by the Fire Department;
- Heat and Smoke Detectors are located in the mechanical and electrical rooms and will sound the building alarm when activated;
- A fire alarm annunciator is located on the ground floor of all buildings equipped with fire alarm systems. A light on the annunciator panel will indicate the area where the alarm was activated;
  - It is the responsibility of building maintenance to notify Fire Dispatcher and the Fire Department if the alarm system is turned off or disconnected for any reason.
- Emergency Procedures:
  - Should a fire be discovered in a building area, the individual shall activate the nearest pull station;
  - The individual discovering the fire shall immediately call 911, or direct another individual to call and report the fire;
  - All persons shall immediately evacuate the building when the fire alarm sounds;
  - Primary exit routes have been marked for rapid and orderly evacuation. Only those exits declared safe shall be used for evacuation purposes, unless an emergency situation warrants other action;
  - Elevators shall not be used during emergencies. It is essential when exiting from the building during an emergency to always use the stairways;
  - All employees and the public shall proceed to the outside of the building away from the access routes of the fire apparatus and the fire hydrants and await further instructions, and ensure that they are at a safe distance from the structure to prevent injury from flying debris;
  - Employees shall not return to the building until an all clear signal is given;
  - The Fire and Rescue Duty Officer will give an all clear signal when it is determined that the danger no longer exists within the building;
  - All fire incidents must be investigated and reported to the Fire Marshal even if they are extinguished by non-emergency persons.

## DRIVING, VEHICLES, & EQUIPMENT STANDARD

POLICY NUMBER: CEMS-041

### PURPOSE:

Only employees specifically authorized and who possess a valid driver's license shall operate City-owned motor vehicles or personal vehicles on City business. The safe operation of cars, trucks and other special motorized equipment is the responsibility of the employee to whom the vehicle or equipment is assigned or owned. Employees who elect to utilize their personal vehicle in lieu of a City vehicle shall abide by all rules, regulations, and safe driving practices as those described herein.

### POLICY:

**A. Driver Eligibility Requirements:** All applicants or employees in positions that require the use of a city vehicle or their personal vehicle in the course of official City business must have their DMV record checked prior to the final position offer or prior to their annual evaluation. An employee is eligible to drive a city vehicle or personal vehicle upon satisfactory review of their Motor Vehicle Record (MVR) based on the following eligibility requirements:

1. The following are the City's accepted driver requirements. Anyone not meeting these requirements may prevent their employment, continued employment, or promotion to a position which includes driving responsibilities:
  - a. A valid driver's license with an accrued point balance between positive 5 points to negative 5 points;
  - b. No license revocations or suspensions within the past three (3) years related to operating a motor vehicle;
  - c. No record of convictions of a felony related to the operation of a motor vehicle within the past three (3) years;
  - d. No more than two (2) at-fault accidents involving a motor vehicle in the past three (3) years;
  - e. No DWI/DUI conviction within the last three (3) years;
  - f. No combination of violations, convictions or accidents that creates a pattern which indicates that the driver is a high-risk driver due to an ongoing history of unsafe driving habits;
  - g. An overall pattern of safe vehicle operation and driving habits.
2. All employees must immediately (within 24 business hours) inform their supervisor and provide a copy of any issued driving infraction, citation, or any change in their driving record, up to and including:
  - a. All license suspensions, restrictions, and revocations;
  - b. Any moving violations received while operating a vehicle;
  - c. Any legal citations, charges or convictions received while operating a vehicle;Employees who fail to report such offenses listed above may be subject to disciplinary action up to and including termination.
3. The City of Winchester will utilize the Virginia Department of Motor Vehicle MVR system to obtain employee's driving records that reside in Virginia on an annual basis, for-cause basis or periodic review basis. In part, the Virginia Department of Motor Vehicle MVR system sends alerts any time an employee's record has changed. The HR Department will also obtain driving records on employees residing outside of Virginia for annual evaluation, employees may be required to produce a copy upon request from the HR Department.
4. If an employee finds it necessary to improve their DMV point total to meet the City's driver requirements, the employee shall be responsible for scheduling and paying for all associated expenses for attending a certified DMV defensive driving course(s). Courses will need to be taken during approved annual leave, or time away from work.

**B. Vehicle Accidents:** By definition, a vehicle accident is any incident in which a vehicle or equipment

comes in contact with another vehicle, person or object, and which may result in death, personal injury or property damage. This definition applies regardless of who is hurt, what property is damaged and to what extent, where the accident occurs or who is responsible. In the event of an accident, the employee driving the vehicle shall:

1. Call the Police immediately at (540) 662-4131, or 9-1-1 to report the accident and its location;
2. Notify his/her supervisor by telephone or radio immediately.

At the scene of the accident, the supervisor shall fill out the Vehicle Accident Report Form, which shall be submitted to the HR Department for any subsequent reporting. The driver shall note position of vehicle after the collision in reference to edge of road, sidewalk line, center of intersection, etc. In addition, accident reports shall be made by the Police Department for all City vehicle involved accidents. Any City employee involved in an accident shall not, under any circumstances, argue about the accident with anyone involved. The employee shall:

1. Not admit fault or promise settlement;
2. Not sign anything unless issued a traffic violation notice by a law enforcement officer;
3. Be courteous but not discuss the accident facts with anyone except appropriate City representatives and authorized law enforcement personnel to the extent necessary for reporting purposes;
4. Not ride in a vehicle being towed by a wrecker.

Any injuries sustained by an employee as a driver or a passenger in a City vehicle involved in an accident must be reported to the Supervisor immediately. The supervisor shall then complete the Vehicle Accident Report form and deliver it to the Risk Manager within 24 business hours.

The Risk & Safety Committee shall review all City vehicle accidents quarterly.

**Post-Accident Drug/Alcohol Testing** – All employees and volunteers are subject to drug and alcohol testing when they perform any safety-sensitive duty that cause or contribute to accidents that damage a City vehicle, machinery, equipment, or anyone's property or that result in an injury to themselves, another employee, or any individual.

Post-accident drug and alcohol testing shall be performed if one of the following circumstances occurs:

1. A fatality occurs or any injury where treatment is sought by any driver, passenger, or individual involved;
2. The employee's performance could have contributed to the accident, including without limitation, as determined by a citation for a moving traffic violation;
3. A transit vehicle is involved and must be removed from revenue service; and
4. If reasonable suspicion applies due to the nature of the incident.

An employee may be directed to undergo drug and/or alcohol testing following an accident that occurs either while the employee is driving a City-owned vehicle or while the employee is in his/her own vehicle engaged in City business other than commuting to and from work.

In each instance of testing, the investigation and subsequent testing shall take place as soon as practicable. Under no circumstances will the employee or volunteer be allowed to drive themselves to the testing facility. A member of supervision/management must escort the employee or volunteer to the testing facility; the Supervisor/Manager will make arrangements for the employee or volunteer to be transported home. An employee or volunteer refusing to consent to a drug or alcohol test is considered an act of insubordination and will be subject to disciplinary action up to and including termination. Employees involved in motor vehicle accidents will be subject to applicable state laws.

# CITY IDENTIFICATION CARDS

POLICY NUMBER: CEMS-042

## PURPOSE:

All City employees and designated individuals are required to wear a City- issued identification (ID) card in accordance with the following procedures. City ID cards help maintain security by identifying authorized personnel at City work sites and residential or commercial properties served by the City and may provide programmed access, as authorized, to secured areas in City facilities.

## POLICY:

**A. Eligibility:** The following individuals are eligible to receive a City ID card:

- Elected and appointed City officials;
- Employees officially employed by the City and currently carried on the City payroll;
- Individuals providing volunteer or special services who are designated by their department head to receive a temporary City ID card.

**B. Displaying City ID Cards:** All employees and designated individuals must wear a City ID cards with the front of the card visible on the outside of their clothing when on duty, providing services, or accessing City facilities. City personnel in uniform with some form of their name and City ID (e.g. City seal) visible on their uniform are not required to wear a City ID card. However, they must carry a City ID card and display it upon request.

**C. Maintenance and Control:** Only one City ID card shall be issued to each eligible person and it must not be transferred or loaned to any other individual. Upon termination of employment, contract, or volunteer services, all City ID cards must be returned to the City.

Temporary City ID cards may be issued by the HR Department to eligible persons for a limited time period (e.g., when an individual provides volunteer or special services) and must be returned to the City by the end of the authorized period. When vendors or contractors perform services in City facilities, the department which has retained their services must ensure that they display a company name badge which identifies who they are and for whom they are employed.

When City employees encounter individuals in restricted areas of City facilities or work sites without appropriate identification and without authorized escorts, they should inquire whether the individuals needs assistance. Any suspicious or unusual behavior should be immediately reported to the police department and/or management personnel.

**D. Processing Requests for ID Cards:** All requests for ID cards are processed in the HR Department at Rouss City Hall, except for Fire & Rescue and Police personnel. ID cards will be issued by the HR Department upon completion of a City ID Request Form. The City will provide ID card holders.

**E. Replacement of City ID Cards:** A replacement ID card is required for a name change, transfer to a different department, and change to a different distinguishing color code or for a lost, missing, stolen, or damaged card. Employees/individuals must immediately notify their department head or the HR Department if their City ID card is lost, missing, stolen, or damaged. An old or damaged City ID card must be returned to the HR Department before a replacement card is issued. The City reserves the right to charge individuals a fee of \$2.00 for ID cards that are lost, missing, stolen, or damaged under certain circumstances. New photographs are not needed when replacing City ID cards since all original photographs are retained on a computer database.